



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***MARCH 1, 2004
9:00 A.M.***

***EMERGENCY OPERATIONS CENTER
CONFERENCE ROOM***

AGENDA

Call to Order--Roll Call.

A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

P 10

A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended.

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A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss acquisition of real property for a public purpose, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended.

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A communication from the City Attorney requesting that Council convene in a Closed Meeting to consult with legal counsel on a matter of actual litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, pursuant to Section 2.2-3711 (A)(7), Code of Virginia (1950), as amended.

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Items listed on the 2:00 p.m. Council docket requiring discussion/clarification; and additions/deletions to the 2:00 p.m. docket. (15 minutes)

Topics for discussion by the Mayor and Members of Council. (15 minutes)

- Agenda items for the joint meeting of Council and the School Board on Monday, April 5, 2004, at 12:00 p.m.

Briefings:

- Right-of-Way Excavation Standard - 15 minutes
- Financial Application Integration Team - 15 minutes
- Library Study Update - 15 minutes

P 14;
P 15;
P 16

THE COUNCIL MEETING WILL BE DECLARED IN RECESS TO BE RECONVENED AT 2:00 P.M., IN THE CITY COUNCIL CHAMBER, FOURTH FLOOR, NOEL C. TAYLOR MUNICIPAL BUILDING.



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***MARCH 1, 2004
2:00 P.M.***

CITY COUNCIL CHAMBER

AGENDA

1. Call to Order--Roll Call.

The Invocation will be delivered by The Reverend Scott McLucas, Pastor, Church of the Holy Spirit Orchard Hills.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Ralph K. Smith.

Welcome. Mayor Smith.

NOTICE:

Meetings of Roanoke City Council are televised live on RVTv Channel 3. Today's meeting will be replayed on Channel 3 on Thursday, March 4, 2004, at 7:00 p.m., and Saturday, March 6, 2004, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE IS REQUESTED TO CONTACT THE CITY CLERK'S OFFICE AT 853-2541, OR ACCESS THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, TO OBTAIN AN APPLICATION.

2. PRESENTATIONS AND ACKNOWLEDGMENTS:

Presentation of Honorary Citizenship Certificates to students from Kasei University and Kawaguchi Junior College, Saitami City, Japan.

R 17

A Resolution memorializing the late Lee B. Eddy, former Member of the Roanoke County Board of Supervisors.

R 19

A Resolution memorializing the late Greta Evans, a long time resident of the City of Roanoke.

Proclamation declaring Monday, March 1, 2004 as Star City Spirit Cheerleaders Day.

3. CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

C-1 Minutes of the regular meetings of Council held on Tuesday, January 20, 2004; Monday, February 2, 2004, and recessed until Tuesday, February 10, 2004.

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P 45

RECOMMENDED ACTION: Dispense with the reading of the minutes and approve as recorded.

C-2 A communication from the City Manager requesting that Council schedule a public hearing for Monday, March 15, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to an encroachment into public right-of-way at 22 Campbell Avenue, S. E.

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- C-3 A communication from the City Manager requesting that Council schedule a public hearing for Monday, March 15, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to an encroachment into public right-of-way at 22 Church Avenue, S. W.

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RECOMMENDED ACTION: Concur in the request.

REGULAR AGENDA

4. PUBLIC HEARINGS: NONE.

5. PETITIONS AND COMMUNICATIONS: NONE.

6. REPORTS OF OFFICERS:

a. CITY MANAGER:

ITEMS RECOMMENDED FOR ACTION:

1. Execution of a Co-promotion Agreement with JAM Theatricals, Ltd., to present a subscription series and stand alone presentation for Broadway type events at the Roanoke Civic Center, for three years, with a two-year option extension.
2. Appropriation of \$645,000.00 in connection with additional State funds for Social Services programs.
3. Appropriation of funds in connection with the Forfeited Asset Sharing Program.
4. Amendment of the City Code to reflect updates to current Federal and State Fair Housing regulations, and revisions to responsibilities of the City's Fair Housing Board.

P 83;
O 91

P 92;
B/O 94

P 95;
B/O 97

P 98;
O 100

b. CITY ATTORNEY:

1. Confirmation that the Virginia Museum of Transportation, Inc., has the right to license to others for commercial use, the likenesses of the 611 and 1218 Class A steam locomotives.

P 116;
R 119

2. Request to change the name from Carilion Health Systems to Carilion Medical Center, in connection with conveyance of certain City-owned property located on Hamilton Terrace, S. E., along with temporary construction easements, and a revocable license to allow encroachment into the right-of-way on Hamilton Terrace, for construction of a pedestrian bridge over the Roanoke River.

P 120;
O 121;
O 123

c. CITY CLERK:

1. Request that Council establish certain dates in connection with the School Trustee selection process.

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d. DIRECTOR OF FINANCE:

1. Financial Report for the month of January 2004.

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7. REPORTS OF COMMITTEES: NONE.

8. UNFINISHED BUSINESS: NONE.

9. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS:

- a. A resolution rescheduling the regular meeting of City Council scheduled to be held on Monday, May 17, 2004, to Thursday, May 20, 2004, at 2:00 p.m. and 7:00 p.m., and amending Resolution No. 36414-070703, which established the meeting schedule for the Fiscal Year commencing July 1, 2003, and terminating June 30, 2004.

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10. MOTIONS AND MISCELLANEOUS BUSINESS:

- a. Inquiries and/or comments by the Mayor, Vice-Mayor and Members of City Council.
- b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.

11. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

12. CITY MANAGER COMMENTS:

CERTIFICATION OF CLOSED SESSION.

THE COUNCIL MEETING WILL STAND IN RECESS UNTIL FRIDAY, MARCH 5, 2004, AT 8:30 A.M., IN THE EMERGENCY OPERATIONS CENTER CONFERENCE ROOM, ROOM 159, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., FOR THE COUNCIL'S FINANCIAL PLANNING WORK SESSION.

**MOTION AND CERTIFICATION
WITH RESPECT TO
CLOSED MEETING**

FORM OF MOTION:

I move, with respect to any Closed Meeting just concluded, that each member of City Council in attendance certify to the best of his or her knowledge that (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by the members of Council in attendance.

PLEASE NOTE:

1. The forgoing motion shall be made in open session at the conclusion of each Closed Meeting.
2. Roll call vote included in Council's minutes is required.
3. Any member who believes there was a departure from the requirements of subdivisions (1) and (2) of the motion shall state prior to the vote the substance of the departure that, in his or her judgement, has taken place. The statement shall be recorded in the minutes of City Council.



RALPH K. SMITH
Mayor

CITY OF ROANOKE
OFFICE OF THE MAYOR

215 CHURCH AVENUE, S.W., ROOM 452
ROANOKE, VIRGINIA 24011-1594
TELEPHONE: (540) 853-2444
FAX: (540) 853-1145

March 1, 2004

The Honorable Vice-Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Members of Council:

This is to request a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph K. Smith", is written over a faint, larger version of the same signature.

Ralph K. Smith
Mayor

RKS:snh



**CITY OF ROANOKE
OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

March 1, 2004

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Subject: Request for closed meeting

Dear Mayor Smith and Council Members:

This is to request that City Council convene a closed meeting to discuss the disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711.A.3, Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in cursive script, reading "George C. Sneed for".

Darlene L. Burcham
City Manager

DLB/s

c: William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Mary F. Parker, City Clerk



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March 1, 2004

**The Honorable Mayor and Members
of City Council
Roanoke, Virginia**

Subject: Request for closed meeting

Dear Mayor Smith and Council Members:

This is to request that City Council convene a closed meeting to discuss the acquisition of real property for a public purpose, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the City, pursuant to §2.2-3711.A.3, of the Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in black ink, reading "Darlene L. Burcham". The signature is fluid and cursive, with the first name "Darlene" and last name "Burcham" clearly distinguishable.

**Darlene L. Burcham
City Manager**

DLB/f

**c: William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Mary F. Parker, City Clerk**



WILLIAM M. HACKWORTH
CITY ATTORNEY

CITY OF ROANOKE
OFFICE OF CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE: 540-853-2431
FAX: 540-853-1221
EMAIL: cityatty@ci.roanoke.va.us

ELIZABETH K. DILLON
STEVEN J. TALEVI
GARY E. TEGENKAMP
DAVID L. COLLINS
HEATHER P. FERGUSON
ASSISTANT CITY ATTORNEYS

March 1, 2004

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Re: Request for closed meeting

Dear Mayor Smith and Council Members:

This is to request that City Council convene a closed meeting to consult with legal counsel on a matter of actual litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, pursuant to §2.2-3711.A.7, Code of Virginia (1950), as amended.

With kindest personal regards, I am

Sincerely yours,

A handwritten signature in black ink that reads "William M. Hackworth". The signature is written in a cursive, flowing style.

William M. Hackworth
City Attorney

WMH:f

cc: Darlene L. Burcham, City Manager
Mary F. Parker, City Clerk



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March 1, 2004

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

Subject: Right-of-Way Excavation
Standard

This is to request space on Council's regular agenda for a 15-minute briefing on the above referenced subject.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
Director of Finance
City Clerk



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March 1, 2004

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

Subject: FAIT Presentation

This is to request space on Council's regular agenda for a 15-minute briefing on the above referenced subject.

Respectfully submitted,

A handwritten signature in black ink, reading "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
Director of Finance
City Clerk



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March 1, 2004

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

Subject: Library Study
 Presentation

This is to request space on Council's regular agenda for a 15-minute briefing on the above referenced subject.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
 Director of Finance
 City Clerk

W 4/18

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION memorializing the late Lee B. Eddy, a resident of the Roanoke Valley and former member of the Roanoke County Board of Supervisors.

WHEREAS, the members of Council learned with sorrow of the passing of Mr. Eddy on February 11, 2004;

WHEREAS, Mr. Eddy was born and raised in Portland, Oregon;

WHEREAS, Mr. Eddy worked as a firefighter with the U.S. Forest Service during the early years of WWII and, as a high school senior, enlisted in the Army Specialized Training Reserve Program;

WHEREAS, Mr. Eddy studied electrical engineering at Oregon State University and, after graduation, worked for several years with Westinghouse Electric in Pittsburgh, Pennsylvania;

WHEREAS, Mr. Eddy went to work for Universal Oil Products of Des Plaines, Illinois in 1952, where he met his future bride, Nancy Purucker;

WHEREAS, Mr. Eddy and his wife moved to the Roanoke Valley in 1962, and worked for the architectural/engineering firm of Hayes, Seay, Mattern & Mattern before joining the engineering partnership of Shumate, Williams, Norfleet and Eddy;

WHEREAS, while Mr. Eddy enjoyed a productive, rewarding career, designing hundreds of lighting systems for regional buildings, his passion was local politics;

WHEREAS, Mr. Eddy served three terms on the Roanoke County Board of Supervisors, first from 1968 to 1971, and later from 1990 through 1997, and as its Chair from 1992 to 1994;

WHEREAS, during Mr. Eddy's service as a Supervisor, he was appointed by Governor George Allen to serve on the State Regional Competitiveness Act Advisory Committee;

WHEREAS, Mr. Eddy served on numerous boards, commissions and associations, and he served with distinction on the Fifth Planning District Commission, the Roanoke County Recycling Advisory Committee, the Clean Valley Council, the Roanoke County Resource Authority, and the Roanoke Valley Greenway Commission, and was an early and tireless advocate of the Roanoke Valley Greenways project; and

WHEREAS, in recent years, Mr. Eddy produced a public access cable television show, which detailed the week's political events throughout local government.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. City Council adopts this resolution as a means of recording its deepest regret and sorrow at the passing of Lee B. Eddy, and extends to his family its sincerest condolences.
2. The City Clerk is directed to forward an attested copy of this resolution to Mr. Eddy's widow, Nancy Eddy, of Roanoke, Virginia.

ATTEST:

City Clerk

WMA

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION memorializing the late Greta Evans, a longtime resident of the City of Roanoke.

WHEREAS, the members of Council learned with sorrow of the passing of Ms. Evans on Sunday, February 22, 2004; and

WHEREAS, Ms. Evans was born in West Virginia in 1935 and moved to Roanoke when she was three years old;

WHEREAS, Ms. Evans graduated at the top of her class from Lucy Addison High School in 1953;

WHEREAS, after graduation, Ms. Evans moved to New York City, where she attended City College.

WHEREAS, after living in New York for 20 years, Ms. Evans returned to Roanoke in the early 1980s and worked for radio stations WTOY and WVTF;

WHEREAS, in 1983, Ms. Evans was hired at WSLS as the host and writer of "Reaching Out," a monthly community affairs program, and her duties expanded to include reporting on community issues and coordination of public service announcements for "Datebook."

WHEREAS, in 1985, Ms. Evans wrote the narration for "Henry St.!", a musical that helped raise money for the restoration of the Henry Street area and that also was credited with jump-starting the restoration of the Henry Street area and the Dumas Center for Artistic and Cultural Development;

WHEREAS, Ms. Evans introduced area children to the African customs and lifestyles by speaking at Roanoke schools; her class, "Do African Children Like Candy, Too? Discovering African Art and Culture in Small Bites," used sweets to teach children about African heritage;

WHEREAS, Ms. Evans volunteered for the Sister Cities program for years, especially working with Roanoke's Sister City of Kisumu, Kenya, and provided for several refugee families that came to Roanoke;

WHEREAS, Ms. Evans was involved with the Harrison Museum of African American Culture;

WHEREAS, Ms. Evans was known as a person who wanted to make a difference in her community, who once said "I don't want merely to pass through this world, but to make a difference."

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. City Council adopts this resolution as a means of recording its deepest regret and sorrow at the passing of Greta Evans, and extends to her family its sincerest condolences.
2. The City Clerk is directed to forward an attested copy of this resolution to Ms. Evans's uncles, The Reverend Thomas Pleasant and Mr. Raymond Pleasant, of Roanoke, Virginia, and to her cousin, Enid Thompson, Temple Hills, Maryland.

ATTEST:

City Clerk

REGULAR WEEKLY SESSION----ROANOKE CITY COUNCIL

January 20, 2004

2:00 p.m.

The Council of the City of Roanoke met in regular session on Tuesday, January 20, 2004, at 2:00 p.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended, and pursuant to Resolution No. 36414-070703 adopted by Council on Monday, July 7, 2003.

PRESENT: Council Members Linda F. Wyatt (arrived late), William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The Invocation was delivered by The Reverend Bill Case, Pastor, Garden City Grace Brethren Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Ralph K. Smith.

PRESENTATIONS AND ACKNOWLEDGMENTS:

DECEASED PERSONS: Mr. Fitzpatrick offered the following resolution memorializing the late Ernest W. Ballou, former Judge, Circuit Court:

(#36595-012004) A RESOLUTION memorializing the last Ernest W. Ballou, a native of Roanoke and retired Judge of the Twenty-third Judicial Circuit of the Commonwealth of Virginia.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36595-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Wyatt was not present when the vote was recorded.)

The Mayor presented a ceremonial copy of the above referenced measure to Robert S. Ballou, son of the late Judge Ballou.

(Council Member Wyatt entered the meeting.)

DECEASED PERSONS: Mr. Cutler offered the following resolution memorializing the late James N. Kincanon, former City Attorney, and President and Treasurer of the Roanoke Bar Association.

(#36596-012004) A RESOLUTION memorializing the late James N. Kincanon, former City Attorney, and President and Secretary/Treasurer of the Roanoke Bar Association.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Cutler moved the adoption of Resolution No. 36596-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

The Mayor presented a ceremonial copy of the above referenced measure to Mrs. Kincanon.

DECEASED PERSONS: Mr. Dowe offered the following resolution memorializing the late Lawrence H. Hamlar, President and Co-owner of Hamlar Curtis Funeral Home, and Roanoke's 2000 Citizen of the Year.

(#36597-012004) A RESOLUTION memorializing the late Lawrence H. Hamlar, a native of Roanoke and President and co-owner of Hamlar-Curtis Funeral Home.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36597-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

The Mayor presented a ceremonial copy of the above referenced measure to Ms. Brenda Miller, niece of the late Mr. Hamlar.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately. He called specific attention to two requests for Closed Session.

MINUTES: Minutes of the regular meeting of Council held on Monday, November 17, 2003, and recessed until Friday, November 21, 2003; and Monday, December 1, 2003, were before the body.

The Mayor requested that the minutes be removed from the Consent Agenda for modification; whereupon, the request was approved by consensus of the Council.

CITY COUNCIL: A communication from Council Member Alfred T. Dowe, Jr., Chair, Personnel Committee, requesting that Council convene in a Closed Meeting to discuss the mid-year performance of three Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of Council Member Dowe to convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY ATTORNEY-CITY COUNCIL: A communication from the City Attorney requesting that Council convene a closed meeting for consultation with legal counsel regarding actual litigation where such consultation in open session would adversely affect the City's negotiating or litigating posture, pursuant to §2.2-3711(A)(7), Code of Virginia (1950), as amended.

Mr. Bestpitch moved that Council concur in the request of the City Attorney to convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

COMMITTEES-INDUSTRIES: A communication from William L. Bova tendering his resignation as a member of the Industrial Development Authority, effective January 9, 2004, was before Council.

Mr. Bestpitch moved that Council accept the resignation and that the communication be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

SCHOOLS-COMMITTEES-OATHS OF OFFICE: A report of qualification of Alvin L. Nash as a Trustee of the Roanoke City School Board, to fill the unexpired term of Melinda J. Payne, resigned, ending June 30, 2004; and Bittle W. Porterfield, III, as a member of the Roanoke Valley Resource Authority, for a term ending December 31, 2007, was before Council.

Mr. Bestpitch moved that the reports of qualification be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith-----7.

NAYS: None-----0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS:

BUDGET-PENSION: C. R. Martin, representing the Roanoke City Retirees Association, requested a pay increase for City retirees for fiscal year 2005 and a supplement toward health insurance for City employees 65 years of age and older.

By consensus of the Council, the matter was referred to fiscal year 2004-05 budget study.

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDATED FOR ACTION:

HOUSING/AUTHORITY-TOTAL ACTION AGAINST POVERTY-GRANTS: The City Manager submitted a communication advising that World Changers, a volunteer ministry of the North American Mission Board, Southern Baptist Convention (World Changers), brings together youth and adults from across the nation to participate in housing and related community service projects; last year, under a subgrant agreement with Blue Ridge Housing Development Corporation, Inc. (BRHDC), which provided Community Development Block Grant (CDBG) funding for materials and other support, approximately 450 World Changers volunteers assisted in repairing more than 40 homes in the City; during the project, housing of workers was provided by the Roanoke City School Board; given the success of the 2003 project and the productive working relationships that were established, the City, BRHDC and World Changers are looking to conduct another project during the summer of 2004; a total of \$80,000.00 in CDBG funds is to be committed to the 2004 project; and funds were authorized by Council, pursuant to Resolution No. 36591-010504, adopted on January 5, 2004, which amended the City's Consolidated Plan to add the 2004 World Changers project.

It was further advised that housing for World Changers volunteers will again be provided by the Roanoke City School Board; and arrangements are being finalized by BRHDC and the City's Youth Services Superintendent directly with school officials.

The City Manager recommended that she be authorized to execute a CDBG Subgrant Agreement with Blue Ridge Housing Development Corporation, Inc., to be approved as to form by the City Attorney.

Mr. Dowe offered the following resolution:

(#36598-012004) A RESOLUTION authorizing the City Manager to enter into a 2003-2004 Community Development Block Grant (CDBG) Subgrant Agreement with the Blue Ridge Housing Development Corporation, Inc., regarding the World Changers project, upon certain terms and conditions.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36598-012004. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY CODE-BUILDINGS/BUILDING DEPARTMENT: The City Manager submitted communication advising that effective October 1, 2003, the Virginia Department of Housing and Community Development adopted the 2000 Edition of the Virginia Uniform Statewide Building Code (USBC) for the purpose of establishing minimum regulations to govern construction and maintenance of buildings and structures; provisions of the USBC are based on nationally recognized model building codes published by the International Code Council, Inc., and are made part of the USBC by reference; and the USBC also contains administrative provisions governing the use of model codes and establishing requirements for the enforcement of the code by local building departments and other code enforcement agencies.

It was further advised that amending the Code of the City of Roanoke, 1979, will reflect recent amendments to the Virginia USBC, by referring to updated code sections that were adopted by the State, and are enforced at the local level.

The City Manager recommended that Council adopt an ordinance amending Sections 7-5 and 7-35 of the Code of the City of Roanoke, 1979, as amended, to bring the City Code into conformity with recent amendments to the Virginia Uniform Statewide Building Code.

Mr. Dowe offered the following ordinance:

(#36599-012004) AN ORDINANCE amending §7-5, Adopted; where copies filed, and §7-35, Definitions, of Article II, Building Code, of Chapter 7, Building Regulations, of the Code of the City of Roanoke (1979), as amended, to update code enforcement regulations; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36599-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-SNOW REMOVAL: The City Manager submitted a communication advising that once again, the City is experiencing a higher than normal demand on snow removal resources; three storms that hit the City thus far have absorbed the bulk of snow removal funds budgeted for the 2003-2004 winter session; demands of last year's storms left the City's salt supplies depleted; limited resources and efforts to balance an overburdened budget resulted in a snow removal operating budget that could not fully replenish the City's salt supplies at the beginning of the winter season; an additional 3,300 tons of salt has been purchased and delivered to the salt storage facility restoring the City's total supply to approximately 4,800 tons (75% of the 6,500 ton capacity); and anticipated salt usage between January 1 and the end of the winter season equals approximately 3,000 tons based on the previous two-year average.

It was further advised that in addition to the purchase of salt, funds are also needed to cover overtime wages and other operations costs; an estimate of the 2003-2004 snow removal expenses was developed by adding the previous two-year average costs (January 1st through the end of the winter season) to the costs already incurred during the current season; and based on this projection, a budget adjustment of \$270,072.00 is needed to support the recent purchase of additional salt and anticipated expenses for the remainder of the winter season.

The City Manager recommended that Council approve transfer of funds in the amount of \$150,000.00 from City Manager Contingency (Account No. 001-300-9410-2199) and \$120,072.00 from Transportation-Streets and Traffic Regular Salaries, Account No. 001-530-4110-1002, to Snow Removal, Account Nos. 001-530-4140, as follows:

1003	Overtime Wages	\$ 105,641.00
1120	FICA	8,081.00
2035	Expendable Equipment	12,913.00
2038	Motor Fuels & Lubricants	6,722.00
2045	Chemicals	\$ 136,715.00

Mr. Fitzpatrick offered the following budget ordinance:

(#36600-012004) AN ORDINANCE appropriating funds for snow removal, amending and reordaining certain sections of the 2003-2004 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36600-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

POLICE DEPARTMENT-BUDGET-GRANTS: The City Manager submitted a communication advising that the Virginia Department of Criminal Justice Services (DCJS) provides grant funding for programs and activities which increase the apprehension, prosecution and adjudication of persons committing violent crimes against women; and the program, "Virginia Services, Training, Officers, Prosecution Violence Against Women" (VSTOP) has funded the establishment of a Domestic Violence Unit within the Police Department since 1999.

It was further advised that on December 29, 2003, DCJS awarded the Police Department \$34,023.00 to employ a full-time, non-sworn Domestic Violence Specialist, thereby allowing continuation of the Domestic Violence Unit in calendar year 2004; and the required City in-kind match of \$11,341.00 will be met through salary paid to current Police Department personnel, with no local cash match required.

It was noted that the Domestic Violence Unit collects and interprets relevant domestic violence offense data which allows proactive case intervention and cultivation of the cooperative working relationships with clients and service/adjudication agencies; and the program produces more equitable victim-offender criminal justice dispositions related to domestic violence offenses.

The City Manager recommended that Council accept the V-STOP grant and that she be authorized to execute the grant agreement and any related documents, in a form to be approved by the City Attorney; and that Council appropriate State grant funds in the amount of \$34,023.00, with a corresponding revenue estimate, in accounts to be established by the Director of Finance in the Grant Fund.

Appropriation:

<u>Description</u>	<u>Account</u>	<u>Amount</u>
Regular Employee Salaries	035-640-3326-1002	\$ 26,897.00
Retirement	035-640-3326-1105	2,044.00
FICA	035-640-3326-1120	2,058.00
Medicare Insurance	035-640-3326-1125	<u>3,024.00</u>
Total		\$ 34,023.00

Mr. Dowe offered the following budget ordinance:

(#36601-012004) AN ORDINANCE appropriating funds for the Police Department Domestic Violence Program Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36601-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

Mr. Dowe offered the following resolution:

(#36602-012004) A RESOLUTION accepting the Virginia Services, Training, Officers, Prosecution (VSTOP) Violence Against Women Grant offer made to the City by the Virginia Department of Criminal Justice Services and authorizing execution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36602-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-HUMAN DEVELOPMENT-LEASES: The City Manager submitted a communication advising that in November 2001, the City of Roanoke entered into a lease agreement for office space for the Department of Human Services and the Health Department with Blue Eagle Partnership for property located at the Civic Mall, 1501 Williamson Road, N. W.; the Department of Human Services will relocate its offices to the Civic Mall, for a lease term of 20 years, commencing on June 1, 2003 and expiring on May 31, 2023; and prior to the commencement date, the Lessor will complete renovations and improvements to the premises in an amount not to exceed \$2,497,080.00.

It was further advised that in November 2002, Council approved Lease Amendment No.1, however, the lease was not, and will not be executed due to lack of funding for the Health Department's portion of the leased premises; therefore, both parties desire to amend the Lease Agreement, as follows:

- The third floor of the building will be occupied by the Department of Human Services, and the second floor will not be occupied by the Health Department at this time due to lack of funding from the State.
- The term of the lease will commence on January 20, 2004, and expire on January 19, 2024.
- The rent for the building will only include the rental amount for the third floor by the Department of Human Services.
- Clarification of the responsibilities of the Lessor and Lessee as to repairs and improvements.

The City Manager recommended that she be authorized to execute Lease Amendment No. 1, in a form to be approved by the City Attorney.

Mr. Harris offered the following ordinance:

(#36603-012004) AN ORDINANCE authorizing the City Manager to enter into an amendment to the Lease Agreement dated November 21, 2001, between the City and Blue Eagle Partnership, relating to certain property located at the Civic Mall, 1501 Williamson Road, Roanoke, Virginia, being leased for use by the Department of Human Services, upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36603-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

AIRPORT-TRAFFIC-BUSES-STATE HIGHWAYS-BRIDGES: The City Manager submitted a communication advising that the *Public-Private* Transportation Act of 1995 (PPTA) was adopted by the General Assembly to enable the Commonwealth of Virginia, qualifying local governments and certain other political entities to enter

into agreements authorizing private entities to acquire, construct, improve, maintain and/or operate qualifying *transportation* facilities, such as roads, bridges, airports, mass transit facilities, and parking facilities.

It was further advised that the *PPTA* encourages public/private ventures for transportation facilities which will result in facilities being constructed in a faster and/or less costly manner, and which utilize innovative financing methods; the *PPTA* allows private entities to develop both solicited and unsolicited proposals, and prescribes the method to be employed by local governments in evaluating same; and while the Virginia Public Procurement Act (*VPPA*) does not apply to projects considered under the *PPTA*, local governments must use procurement procedures that are consistent with either competitive sealed bidding or competitive negotiation for other than professional services, as defined in the *VPPA*.

In summary, it was explained that the intent of the legislation is to encourage public-private partnerships in providing transportation facilities by facilitating more flexibility and creativity in the construction and financing of such projects; however, flexibility and creativity must be within the structure of the Act.

The City Manager advised that a substantial number of *PPTA* projects are underway, or under construction across the State, including the Interstate 81 widening project; many of these projects would likely not be built or would be long delayed if not for the public-private partnership approach; and the demonstrated success of the *PPTA*, combined with the mounting list of unmet infrastructure needs and the scarcity of public resources, led the General Assembly to adopt the *Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)*.

It was further advised that the *PPEA* provides the flexibility for local governments, like Roanoke, to create public-private partnerships to meet a wide range of infrastructure needs, such as *Schools and related facilities (including stadiums or other facilities used for school events), other public buildings or facilities, utility and communications infrastructure, recreation facilities, and technology infrastructure*; like the *PPTA*, its intent is to encourage public-private partnerships in providing qualifying projects in a faster, less costly manner by allowing more flexibility and creativity in the construction and financing of such projects; the *VPPA* does not apply to projects under *PPEA*, but local governments must utilize procurement procedures that are consistent with either competitive sealed bidding or competitive negotiation for other than professional services, as defined in the *VPPA*; and local governments are required to adopt procedures consistent with the *PPEA* before any such proposal can be considered.

It was explained that staff has developed implementation procedures based on an evaluation of *PPEA* requirements and procedures adopted by other Virginia local governments, including Roanoke County.

The City Manager recommended that Council approve and adopt the Procedures for the Public-Private Education facilities and Infrastructure Act of 2002; and authorize the Director of General Services to make such procedure publicly available, which may include posting on the City's website; and further authorize the City Manager to take such further action as may be necessary, including development of guidelines, to implement and administer such procedures.

Mr. Fitzpatrick offered the following ordinance:

(#36604-012004) AN ORDINANCE adopting procedures for the Public-Private Education Facilities and Infrastructure Act of 2002; authorizing the City's Director of General Services to make such procedures publicly available; authorizing the City Manager to take such further action as may be necessary to implement and administer such procedures; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36604-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY ATTORNEY:

CITY ATTORNEY-CLERK OF CIRCUIT COURT: A report of the City Attorney with regard to a contract with the Clerk of the Circuit Court was deferred until the 7:00 p.m. Council Session.

CITY CLERK:

SCHOOLS: The City Clerk submitted a written report advising that pursuant to Chapter 9, Education, Code of the City of Roanoke (1979), as amended, establishing a procedure for the election of School Trustees, the terms of office of Alvin L. Nash and Ruth C. Willson will expire on June 30, 2004.

It was further advised that pursuant to Section 9-16, Code of the City or Roanoke (1979), as amended, on or before February 15 of each year, Council shall announce its intention to elect Trustees of the Roanoke City School Board for terms commencing July 1 through (1) public announcement of such intention at two consecutive regular sessions of the Council and (2) advertisement of such intention in a newspaper of general circulation in the City twice a week for two consecutive weeks; Section 9-17 of the City Code provides that applications must be filed in the

City Clerk's Office by March 10 of each year; applications will be available in the City Clerk's Office and may be obtained between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or applications may be completed online at the City of Roanoke's web page www.roanokegov.com; and information describing the duties and responsibilities of School Trustees may be obtained in the City Clerk's Office.

Without objection by Council, the Mayor advised that the report would be received and filed.

DIRECTOR OF FINANCE:

BONDS/BOND ISSUES: The Director of Finance submitted a written report advising that the City issued \$23 million of Series 1996A and \$8.3 million of Series 1996B bonds dated January 1, 1996; the bonds were issued to fund various projects including education, infrastructure, buildings, parks and economic development; maturities on and after February 1, 2007, totaling \$23.6 million are callable, and interest rates on the callable maturities of the bonds range from 4.9 per cent to 5.0 per cent.

It was further advised that the City issued \$13.01 million of Series 1997A bonds dated December 16, 1997; the bonds were issued to fund various projects including education, infrastructure, buildings, parks and economic development; maturities on and after August 1, 2007, totaling \$7.15 million are callable, and the interest rate on each of the maturities is 5.0 per cent.

The Director of Finance explained that the City issued \$26,020,000.00 of Series 1999A and \$10,100,000.00 of Series 1999B bonds dated October 15, 1999; the bonds were issued to fund various projects including schools, buildings, storm drains, the Roanoke Higher Education Center, the Johnson and Johnson project and other infrastructure projects; maturities on and after October 1, 2010, totaling \$19.19 million are callable, and interest rates on the callable maturities of the bonds range from 5.0 per cent to 6.0 per cent.

It was noted that based on recent municipal bond interest rates, the City could potentially realize considerable savings by refunding a portion of the 1996, 1997 and/or 1999 bonds; resulting savings would be contingent upon the combination of the interest rate received on the refunding bonds and the interest rate obtained on the Treasury certificates purchased to fund the escrow to be used to pay the current outstanding bonds when the bonds become callable; based upon discussions with the City's financial advisor, BB&T Capital Markets, it is believed that an appropriate level of savings to justify refunding the 1996 bonds would be a net present value amount of \$500,000.00, provided that savings of at least three per cent of net present value of the refunded bonds could also be achieved; and appropriate level of savings to justify refunding the 1997A bonds would be a net

present value amount of \$200,000.00, provided that savings of at least three per cent of net present value of the refunded bonds could also be achieved; an appropriate level of savings to justify refunding the 1999 bonds would be a net present value amount of \$500,000.00, provided that savings of at least four per cent of net present value of the refunded bonds could also be achieved.

It was advised that since interest rates fluctuate daily, it is imperative to the success of a refunding that the City act quickly once interest rates enable use to achieve an acceptable level of savings, thus, a negotiated sale, versus an open market competitive sale, can be accomplished in a much shorter timeframe and is deemed more practical in this situation; in order to conduct an evaluation of the most advantageous underwriter or syndicate of underwriters to utilize in this situation, the City has invited several firms to analyze the refunding opportunities using the same date upon which to base market conditions; a team of personnel from the City's Department of Finance and the City's financial advisor, BB&T Capital Markets, will evaluate the responses to the analyses and make selections accordingly; and refunding bonds will be considered additional debt in the context of the City's debt policy and from the rating agencies' perspective only to the extent that a slightly higher level of principal would need to be issued than the amount of bonds being refunded.

The Director of Finance recommended that Council adopt a resolution authorizing the City Manager and the Director of Finance to issue up to \$60 million in refunding bonds to be sold by an underwriting firm, or firms, to be selected by the Director of Finance; refunding bonds shall be issued to refund the 1996 bonds if net present value savings of \$500,000.00 and a minimum of three per cent of the net present value of the 1996 bonds can be achieved; refunding bonds shall be issued to refund the 1997A bonds if net present value savings of \$200,000.00 and a minimum of three per cent of the net present value of the 1997A refunded bonds can be achieved; and refunding bonds shall be issued to refund the 1999 bonds if net present value savings of \$500,000.00 and a minimum of four per cent of the net present value of the 1999 refunded bonds can be achieved.

Mr. Cutler offered the following resolution:

(#36605-012004) A RESOLUTION authorizing the issuance and sale at negotiated sale of not to exceed sixty million dollars (\$60,000,000.00) principal amount of City of Roanoke, Virginia, general obligation public improvement refunding bonds; fixing the form, denomination and certain other details of such bonds and delegating to the City Manager and the Director of Finance authority, among other things, to select an underwriter for such bonds, to execute and deliver to such underwriter a bond purchase contract by and between the City and such underwriter, to determine the aggregate principal amount of such bond, the maturity dates of such bonds and the principal amounts of such bonds maturing in each year, the interest payment dates for such bonds and the rates of interest to be borne by such bonds, the redemption provisions and redemption premiums, if any,

applicable to such bonds and to appoint an escrow agent for the bonds to be refunded from the proceeds of such bonds; authorizing the preparation of a preliminary official statement and an official statement and the delivery thereof to such underwriter; authorizing the execution and delivery of a continuing disclosure certificate relating to such bonds; authorizing the execution and delivery of an escrow deposit agreement relating to the refunded bonds; authorizing the City Manager and the Director of Finance to appoint a verification agent; authorizing the City Manager and the Director of Finance to designate the refunded bonds for redemption; and otherwise providing with respect to the issuance, sale and delivery of such bonds and the refunding of the refunded bonds.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Cutler moved the adoption of Resolution No. 36605-012004. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council approve the following appropriations and transfers:

- \$86,809.00 from the 2003-2004 Capital Maintenance and Equipment Replacement Fund to provide monies for musical instrument replacement, health equipment, instructional technology equipment, administrative technology equipment, custodial equipment, grounds improvements, and transportation facility fixtures.
- \$500,000.00 for architect fees for the Patrick Henry High School project.
- \$46,300.00 for the Special Education Interpreter Training program to provide funds for development of training curriculum for the hearing impaired program, which is a continuing program that will be reimbursed 100 per cent by Federal funds.
- \$15,000.00 for the Chess Program. A private donation has been received for this continuing program.
- \$8,250.00 for the Western Virginia Regional Science Fair, which is a continuing program that will be funded with contributions from participating school districts, corporate and individual contributions, and a local match.

- \$42,225.00 for the Patrick Henry Youth Court Program, which will provide instruction in the legal process and will allow for alternative disciplinary actions, to be reimbursed with Federal funds.

A report of the Director of Finance recommending that Council concur in the request of the School Board, was also before the body.

Mr. Fitzpatrick offered the following budget ordinance:

(#36606-012004) AN ORDINANCE to appropriate funding for equipment from the Capital Maintenance and Equipment Replacement Program (CMERP), architect fees for the Patrick Henry High School project and several grants, amending and reordaining certain sections of the 2003-2004 School, School Capital Project and School Food Service Funds Appropriations and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36606-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

ROANOKE NEIGHBORHOOD PARTNERSHIP: Carl D. Cooper, Chair-Elect, Roanoke Neighborhood Advocates, presented a report advising that the Roanoke Neighborhood Advocates (RNA) was established pursuant to Resolution No. 36397-061603 adopted by Council on June 16, 2003, and is charged with the responsibility of fulfilling eight goals, defined as "duties and responsibilities; and Resolution No. 36397-061603 instructed the Roanoke Neighborhood Advocates to submit its By-Laws and Strategic Plan for approval by Council by December 30, 2003.

Mr. Cooper presented the proposed By-Laws and Strategic Plan for the RNA, and advised that although the documents address the structure and the way that the RNA would like to carry out its work, they are subject to change as knowledge of community issues grow.

(See By-Laws and Strategic Plan on file in the City Clerk's Office.)

It was the consensus of Council that the Strategic Plan and By-Laws would be referred to the City Manager for staff review and to the City Attorney for preparation of the proper measure for consideration by Council at the next regular meeting on Monday, February 2, 2004.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR, VICE-MAYOR AND MEMBERS OF CITY COUNCIL: NONE.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

SIDEWALK/CURB AND GUTTER-COMPLAINTS-HOUSING AUTHORITY-COMMUNITY PLANNING- STREETS AND ALLEYS: Mr. Chris Craft, 1501 East Gate Avenue, N. E., advised that northeast Roanoke, and specifically the East Gate community, has been ignored in the City's Comprehensive Plan. He referred to problems associated with water run off due to the lack of storm drains and curb and gutter in the East Gate Community; the need for storm doors for Lincoln Terrace residents; sidewalks on Orange Avenue are in need of repair; and the need to pave streets in the East Gate community, specifically 20th Street, N. E.

CITY MANAGER COMMENTS:

FIRE DEPARTMENT: The City Manager called attention to a fire that occurred at a local apartment complex over the weekend in which a child lost his life. She referred to the importance of working smoke detectors which are available through the City's Fire Department and will be installed upon request and with the permission of the home owner.

At 3:00 p.m., the Mayor declared the Council meeting in recess for two Closed Sessions.

At 7:00 p.m., on Tuesday, January 20, 2004, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with prayer by Mayor Smith.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PRESENTATIONS AND ACKNOWLEDGEMENTS:

ACTS OF ACKNOWLEDGEMENTS:

On behalf of the Members of Council, the Mayor advised that he was pleased to present a Shining Star Award to Ms. Elizabeth Baker. He stated that Ms. Baker's grandmother purchased Saleeba's Grocery Store at 926 Tazewell Avenue, S. E., in 1940, her mother worked in the store for over 50 years providing service to southeast Roanoke residents, and Ms. Baker has continued to operate the neighborhood retail store and contribute to the "village center" concept. He stated that Ms. Baker also works a second job as a nurse, yet she continues this fine tradition that was started by her family in 1940.

PUBLIC HEARINGS:

ZONING: Pursuant to Ordinance No. 35523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Tuesday, January 20, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of Creekside Center, LLC, to rezone two tracts of land located at the intersection of Shenandoah Avenue and Peters Creek Road, N. W., identified as Official Tax Nos. 6030116 and 6030106, from RM-2, Residential Multi-Family, Medium Density District, to C-2, General Commercial District, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, January 2, 2004 and Friday, January 9, 2004.

The City Planning Commission submitted a written report advising that the two subject parcels are surplus properties owned by the Virginia Department of Transportation; and the petitioner is the contract purchaser of two vacant properties, which total 0.136 acre.

It was further advised that two commercial tracts adjoining the subject parcels were rezoned in 1998 to C-2, with conditions, to permit the construction of a Food Lion grocery store with two outparcels; the petitioner plans to purchase the two outparcels for development for retail purposes; conditions on the C-2 outparcels include limitations on use of the property, specifically prohibiting

outdoor advertising, automobile repair, establishments primarily engaged in the sale or rental of automobiles, trucks and construction equipment, and automobile painting and body shops; and the petitioner's request to rezone the adjoining surplus properties of the Virginia Department of Transportation (VDOT) would permit development of the two outparcels without the side yard depth and landscaped buffer that would otherwise be required on the C-2 properties because of their being contiguous with residentially-zoned parcels.

It was noted that the two surplus properties owned by VDOT, as a result of the Peters Creek Extension, are no longer viable residential properties; approval of the rezoning request would provide for more flexibility in the development of the two outparcels on the Food Lion tract; and the request to rezone the two subject parcels is consistent with the policies of Vision 2001-2020 to encourage commercial development in appropriate areas (i.e., key intersections and centers) of Roanoke and to maximize utilization of commercial sites.

The City Planning Commission recommended approval of the proposed rezoning, given the size and surplus status of the two subject properties and the adjoining C-2 tracts of land and their potential commercial development.

Mr. Dowe offered the following ordinance:

(#36607-012004) AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 603, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36607-012004. The motion was seconded by Mr. Fitzpatrick.

Maryellen F. Goodlatte, Attorney, appeared before Council in support of the request of her client.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or comments by Council Members, Ordinance No. 36607-012004 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

WATER RESOURCES: Pursuant to Ordinance No. 35523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Tuesday, January 20, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of the Western Virginia Water Authority to acquire, finance, construct, operate, manage and maintain a water, waste water, sewage disposal and storm water control system and related facilities, pursuant to the Virginia Water and Waste Water Authorities Act, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, December 20, 2003.

The Mayor advised that the purpose of the public hearing is to gather public input on the creation of a regional water and wastewater authority. He stated that the last drought convinced community leaders in Roanoke and Roanoke County that a better plan for the Roanoke Valley's water supply was needed; therefore, on February 27, 2003, Council and the Roanoke County Board of Supervisors voted to authorize and direct their staffs to jointly plan such an authority, in order to become true partners in meeting the water and wastewater needs of their citizens and businesses.

He explained that City and County employees have been busy since that time planning the merger of operations in both jurisdictions to form the Western Virginia Water Authority; and in September, 2003, seven community meetings were held at locations in Roanoke County and the City of Roanoke to solicit citizen input on the Authority and to answer questions raised by residents. He advised that currently under consideration is a concurrent resolution containing Articles of Incorporation that define the Authority and authorize the City Attorney to file the Articles of Incorporation with the State Corporation Commission; among other things, the Articles of Incorporation specify the new name of the Authority which is the Western Virginia Water Authority, create a seven member board to oversee the Authority, and empower the Authority to manage water and wastewater assets in the best interest of both City and County residents.

The City Manager submitted a communication advising that the Western Virginia Water Authority will be responsible for all functions and operations in the combined City and County service area, including operation and maintenance of facilities, finances, bonding, rate setting, billing, and capital construction; utility assets and current utility employees from both jurisdictions will be transferred to the Authority; City Council and the Roanoke County Board of Supervisors are responsible for appointing members to the Authority's seven member governing board; and a concurrent resolution also allows for delegation of storm water operations if desired at a late date.

The City Manager recommended that Council adopt a concurrent resolution creating the Western Virginia Water Authority and authorizing the City Attorney to file the Articles of Incorporation with the State Corporation Commission.

Mr. Fitzpatrick offered the following resolution:

(#36608-012004) A RESOLUTION creating the Western Virginia Water Authority.

(For full text of Resolution, see Resolution Book No. 68.)

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

Council Member Fitzpatrick advised that this is a "red letter day" and expressed appreciation to the citizens of the Roanoke Valley who continue to conserve water and support a Regional Water Authority. He commended Council for the leadership provided to City staff by allowing staff the freedom to work through the details of the project which will make a significant difference in the lives of not only Roanoke City residents, but in the lives of citizens of the entire Roanoke Valley and beyond.

There being no further discussion or comments by Council Members, Resolution No. 36608-012004 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

OTHER BUSINESS:

COMPLAINTS-NEIGHBORHOOD ORGANIZATIONS: A request of Ms. Sharon Sue Altice, 2815 Daleton Boulevard, N. E., to present certain neighborhood concerns, was before Council.

The City Clerk advised that Ms. Altice would like to withdraw the item at this time.

CLERK OF CIRCUIT COURT-SHERIFF-COMMONWEALTH ATTORNEY-TREASURER-COMMISSIONER OF THE REVENUE: Council at its 2:00 p.m. session, having delayed action on a report of the City Attorney with regard to a contract with the Clerk of the Circuit Court, pending preparation of the proper measure establishing the salary of the current Clerk of Circuit Court, the matter was before the body.

The City Attorney submitted a written report advising that while Constitutional Officers are not required to provide a grievance procedure for their employees, such employees may be covered by a local government's grievance procedure and be accepted into the locality's personnel system, if agreed to by the Constitutional Officer and the local governing body, which is authorized by §15.2-3008, Code of Virginia; the agreement is customarily memorialized by execution of an agreement between the Constitutional Officer and the governing body; and the City currently has such agreements with all of its Constitutional Officers, and has so contracted with the Clerk of the Circuit Court since 1980.

It was further advised that such contracts with Constitutional Officers expire when a Constitutional Officer leaves office, and new contracts must be executed by successors to the position; Brenda Hamilton, the new Clerk of Circuit Court, has proposed a contract which proposes terms heretofore not addressed in such contracts, addressing such things as courthouse access and the role of the Circuit Court in establishing work hours of the Clerk's office; the proposed contract has been reviewed by the City Manager, Director of Finance, Human Resources Manager and City Attorney, and they have no problem with the terms of the contract as proposed.

The City Attorney explained that the new City Treasurer, Evelyn Powers, has executed a contract with the City; terms of the contract are those traditionally agreed to by the City; and Council has given the City Manager the authority to execute the agreement, therefore, no further action by the Council is necessary.

Mr. Bestpitch offered the following ordinance:

(#36609-012004) AN ORDINANCE amending Ordinance No. 36313-051203, establishing compensation for the Sheriff, Treasurer, Commissioner of Revenue, Commonwealth's Attorney, and Clerk of Circuit Court for the fiscal year beginning July 1, 2003; authorizing execution of revised contracts with the Sheriff, Treasurer, Commissioner of Revenue and Clerk of Circuit Court with respect to their employees participating in the City's Classification and Pay Plans, to reflect a revised method for establishing the compensation of these officers; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Bestpitch moved the adoption of Ordinance No. 36609-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

Mr. Harris offered the following resolution:

(#36610-012004) A RESOLUTION authorizing execution of an agreement and authorizing the City Manager to extend full benefits of participation in the City's Classification and Pay Plans to the Clerk of Circuit Court and her deputies and employees, upon execution by such constitutional officers of a written agreement between the City and her, relating to the Clerk's compliance with certain City ordinances, policies and procedures.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Harris moved the adoption of Resolution No. 36610-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

COMPLAINTS-DRUGS/SUBSTANCE ABUSE: Ms. Sandra Jeffries, 111 Forest Park Boulevard, N. W., read a prepared statement in opposition to the proposed methadone clinic to be located on Hershberger Road, N. W. She advised that the facility may provide a needed service, but it should be located in a hospital setting and not in a residential neighborhood where children are being raised and where businesses are located. She stated that it appears that pleas from the community are being ignored and the matter should be addressed by those persons who have the authority to move the proposed methadone clinic to a more appropriate location.

In response to Ms. Jeffries' remarks, Mr. Bestpitch agreed that the location on Hershberger Road is not an appropriate site for the proposed methadone clinic. He stated that his colleagues on Council agree that if it were within the power of Council to prevent the methadone clinic from opening on Hershberger Road, the Council would have already taken the necessary action. He called attention to the importance of confidentiality for those persons who seek treatment, therefore, the facility should be established at a location such as the Veterans Administration Medical Center complex where numerous buildings are visited by persons for various reasons. He stated that when he accepted the responsibility of serving on Council, he did so with the intention of representing all of the citizens of Roanoke,

which includes those citizens who are dealing with the demons of chemical addiction and are trying to turn their lives around by getting the help they need in order to have a better future and to become better members of society.

COUNCIL-COMPLAINTS: Mr. Robert Gravely, 729 Loudon Avenue, N. W., quoted Bible scripture.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Harris moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

There being no further business, the Mayor declared the meeting adjourned at 7:35 p.m.

APPROVED

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

REGULAR WEEKLY SESSION-----ROANOKE CITY COUNCIL

February 2, 2004

9:00 a.m.

The Council of the City of Roanoke met in regular session on Monday, February 2, 2004, at 9:00 a.m., the regular meeting hour, in the Emergency Operations Center Conference Room, Room 159, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2- 15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended; and pursuant to Resolution No. 36193-010603 adopted on January 6, 2003, which changed the time of commencement of the regular meeting of Council to be held on the first Monday in each month from 12:15 p.m. to 9:00 a.m.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr. (arrived late), Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Cutler moved that Council concur in the request of the Mayor to convene in Closed Meeting as above described. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Fitzpatrick, Harris, Wyatt and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Dowe was not present when the vote was recorded.)

PURCHASE/SALE OF PROPERTY-CITY PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss acquisition of real property for a public purpose, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711(A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Cutler moved that Council concur in the request of the City Manager to convene in a Closed Meeting as above described. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Fitzpatrick, Harris, Wyatt and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Dowe was not present when the vote was recorded.)

PURCHASE/SALE OF PROPERTY-CITY PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711(A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Cutler moved that Council concur in the request of the City Manager to convene in a Closed Meeting as above described. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Fitzpatrick, Harris, Wyatt and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Dowe was not present when the vote was recorded.)

ITEMS LISTED ON THE 2:00 P.M. COUNCIL DOCKET REQUIRING DISCUSSION/CLARIFICATION; AND ADDITIONS/DELETIONS TO THE 2:00 P.M. DOCKET: None.

(Council Member Dowe entered the meeting.

TOPICS FOR DISCUSSION BY THE MAYOR AND MEMBERS OF COUNCIL:

Council Liaison Committee Assignments:

Council Member Cutler reported on the following:

ROANOKE ARTS COMMISSION:

A major preoccupation of the Roanoke Arts Commission has been to set the stage for drafting and review by Council of a Public Art Plan for the City of Roanoke. The Commission has reviewed art plans from other cities around the country and the Chairman will appear before Council at its next meeting on Tuesday, February 17, 2004, to request that a portion of the funds set aside for Percent for the Arts be used to engage a consultant to oversee the preparation of a Public Art Plan, which would eventually become a part of the City's Comprehensive Plan.

PARKS AND PLAYGROUNDS:

Mill Mountain Advisory Committee:

The Mill Mountain Advisory Committee held a strategic planning retreat and concluded that the City, in conjunction with the Committee, should prepare a true comprehensive master plan for Mill Mountain Park, which would cover the entire park and not just the so called developable flat area on the top of the mountain, identify steep slopes and other areas that, for various reasons, watershed protection or scenic value protection, etc., should remain undeveloped, which could lead to a recommendation for a conservation easement for a portion of the Park to protect in perpetuity.

FIFTH PLANNING DISTRICT COMMISSION:

Roanoke Valley Allegheny Regional Commission:

Initiatives by the Roanoke Valley Allegheny Regional Commission related to the City include the ozone action plan, the bikeway plan, the brown field inventory, and the regional long range water supply study.

WATER RESOURCES:

Western Virginia Water Authority:

The Board of Directors of the Western Virginia Water Authority has met on several occasions, and a request for proposals will be advertised in the near future for legal counsel to represent the Authority, proposals will be reviewed by a committee and a recommendation will be made to the Board of Directors. A meeting of the Council and the Roanoke County Board of Supervisors will be held on Tuesday, February 10, 2004, at which time Black and Veatch, Consultants, will submit a recommendation regarding a period of time over which water and sewer rates in Roanoke City and Roanoke County will be equalized.

Council Member Wyatt reported on the following:

ROANOKE CIVIC CENTER-HOCKEY:

Roanoke Civic Center Commission:

The contract with the Roanoke Express hockey team is under review; there appears to be a good working relationship between the Director of Civic Facilities and the General Manager of the Roanoke Express and both parties are looking at new and innovative ways to make the contract workable for both the City and the Roanoke Express.

Plans for Civic Center improvements are proceeding and an improvement in the overall cleanliness of the Civic Center has been noticed.

Roanoke Neighborhood Development Corporation:

The project is proceeding and some progress has been made.

Vice-Mayor Harris reported on the following:

HOUSING/AUTHORITY:

Roanoke Redevelopment and Housing Authority:

Council Members are provided with monthly updates on Housing Authority activities/projects; monthly breakfast meetings continue to be held on the last Thursday of each month and a Member of Council is invited each month. (Council Members Fitzpatrick and Dowe indicated that because of their work schedules, they are unable to attend on the last Thursday of each month.)

SCHOOLS:

Organizing Committee - School Safety Task Force:

The School Safety Task Force recently held public forums at four locations throughout the City which were attended by approximately 125 persons; approximately 5000 student surveys will be sent to students in fourth, sixth, eighth, ninth and eleventh grades to obtain their perception and impressions of school safety; the Roanoke Education Association is conducting a teacher survey and the Parent-Teacher Association is conducting a parent survey, and all surveys should be completed by the end of February. The Task Force remains committed to completing its work by mid to late March.

The City Manager advised that she was personally impressed with the level of dedication and commitment that has been demonstrated by School Safety Task Force members, which is another indication that when people in the Roanoke community volunteer for service, they are committed to making a difference.

Council Member Bestpitch reported on the following:

ROANOKE NEIGHBORHOOD PARTNERSHIP:

Roanoke Neighborhood Advocates:

The Roanoke Neighborhood Advocates Strategic Plan and By-laws will not be addressed at the 2:00 p.m. Council session as was previously

indicated because certain wording is in the process of being refined. Council Members are encouraged to offer suggestions/input prior to finalization of the documents.

LEGISLATION:

Legislative Committee:

Periodic updates on actions taken by the Virginia General Assembly at its 2004 Session are received from Thomas Dick, Legislative Liaison for the City of Roanoke. Appreciation was expressed to the City Attorney for coordinating the City's Legislative Program.

Virginia Municipal League Legislative Day will be held in Richmond, Virginia, on February 12, 2004, and Council Members Bestpitch, Cutler, Fitzpatrick, Wyatt and Mayor Smith plan to attend.

ZONING:

Zoning Ordinance Update:

An article in the February 2, 2004 edition of *The Roanoke Times* in regard to the zoning ordinance was a good attempt to present the situation as it currently exists; the work of the Zoning Ordinance Steering Committee should be acknowledged; however, it was noted that the draft of the zoning ordinance which has been released for public comment is far from perfect, it is anticipated that a number of changes will be made, citizens will have an opportunity to provide input, and a refining process will occur over the next three to four months.

Council Member Dowe reported on the following:

DOWNTOWN ROANOKE, INCORPORATED:

Downtown Roanoke, Inc. Board of Directors:

The H & C Coffee Sign has taken an untimely delay due to the death of an individual who was involved in the lighting aspect of the project and the physical boundaries that are actually considered to be downtown Roanoke.

Council Member Fitzpatrick reported on the following:

CONVENTION AND VISITORS BUREAU:

Roanoke Valley Convention and Visitors Bureau:

The relocation of the Roanoke Valley Convention and Visitors Bureau to the Roanoke Railway Passenger Station and the opening of the O. Winston Link Museum is one of the greatest accomplishments of the City of Roanoke and southwest Virginia; additional tourism dollars will come to the Roanoke Valley in 2004 and the more that can be done to showcase the Roanoke Valley as a destination point, the better off the region will be.

The Mayor reported on the following:

HOTEL ROANOKE CONFERENCE CENTER COMMISSION:

Hotel Roanoke Conference Center Commission:

The Hotel Roanoke Conference Center has done an excellent job and officials continue to monitor finances.

AIRPORT:

Improved Air Service to the Roanoke Valley:

Improved air service would improve economics for the entire Roanoke Valley area, and approximately \$2 million in ticket bank pledges were raised by area governments and businesses in the Roanoke Valley in an effort to attract Air Tran. There is an opportunity to approach another airline, Atlantic Coast Airlines, whose business plan is to fly to 50 markets, with Dulles International serving as its headquarters; and it is rumored that certain cities have been identified as potential service points, and of which is the City of Roanoke, therefore, Roanoke should position itself in order to take advantage of the opportunity at the appropriate time. The City of Roanoke is recognized as the cultural and business hub of the region and in order to demonstrate leadership, the Roanoke Valley will have to become a transportation hub. The Roanoke Valley must promote itself; whereupon, the Mayor requested

input by Council with regard to suggestions on how to move forward. He advised that although no dollar figure is requested today, at some point Roanoke could be called upon to expend funds.

Council Member Fitzpatrick advised that the majority of all airline hubs that have been created over the past 20 years came about as a result of the existence of a maintenance facility, Dulles International does not have maintenance facilities available for Atlantic Coast Airlines, and he would encourage the City of Roanoke to offer Atlantic Coast a maintenance facility, which automatically brings in more flights because aircraft is rotated in and out of the facility.

Dr. Cutler advised that as the City discusses its transportation hub status, it should be reminded of the need to join with others in restoring rail passenger service to the Roanoke Valley and improving rail freight service along Interstate 81, so as to have a total package of Roanoke rolling transportation needs, including improved rail passenger service and low fair air service.

The Mayor advised that the Executive Director of the Roanoke Regional Airport met with officials of Atlantic Coast Airlines and it is believed that a return trip would be in order which should be properly coordinated with the right mix of officials in attendance.

There was discussion in regard to engaging the services of a marketing firm to coordinate the presentation so as to make the best possible impression.

Following further discussion, Ms. Wyatt moved that the City Manager be requested to report to Council as soon as possible with regard to engaging the service of a marketing firm to create a plan to promote Roanoke to Atlantic Coast Airlines as a potential location for air service. The motion was seconded by Mr. Fitzpatrick and unanimously adopted.

COUNCIL-DECEASED PERSONS:

At the 2:00 p.m. Council session, Mr. Dowe suggested that Council observe a moment of silence in memory of Dr. Nora Kiser Bell, President, Hollins University.

BRIEFINGS:

HOUSING/AUTHORITY:

The City Manager introduced a briefing on Roanoke's International Housing Design and Construction Competition. She advised that for the past five years, the Roanoke Regional Housing Network has been working with the city of Roanoke to develop and implement a national housing design competition in Roanoke; the City is providing seed money to support development of the competition; and the Housing Network has contracted with Gregg Lewis, Architect, SmithLewis Architecture, to manage the project. She introduced Mr. Lewis, and Paula Prince, Assistant Director, Council of Community Services, both of whom are Members of the Roanoke Regional Housing Network, to present details of the program.

Mr. Lewis called attention to a presentation made by William McDonough, an internationally acclaimed architect, in October, 2003, at which time approximately 700 persons participated in a mid morning lecture on his book entitled, Cradle to Cradle: Rethinking the Way We Make Things; and Mr. McDonough has offered to facilitate Roanoke's efforts to do more with local housing design competition. He stated that the proposed Housing Design competition has the potential to generate hundreds of designs from all over the world for housing that will address specific properties within the City of Roanoke; it will be necessary to identify specific pieces of property within the City; and specifics on the various properties will be provided to participants in the competition to enable entries to be site specific from a design standpoint. He explained that the outcome will be the submission of designs that respond to the historic, demographic and socio-economic context, or those things that are specifically unique to Roanoke, rather than a series of academic responses.

He advised that in April, 2004, Mr. McDonough will serve as the key note speaker at a national business conference in Minneapolis, Minnesota, at which time the City of Roanoke, in conjunction with Mr. McDonough, has been invited to formally launch the Roanoke Housing Design Competition to those media outlets that typically attend the conference, which will provide the City of Roanoke with an opportunity to initiate a program that has tremendous potential in terms of raising the visibility of Roanoke on the national and international levels, particularly in the design industry. He added that it is expected to receive the support of the national component of the American Institute of Architects and the National Association of Home Builders; and the goal is that whatever happens in Roanoke in 2004 - 2005 could be transported to other communities in the future so that on the national stage, it will be reported that the City of Roanoke initiated a housing design competition that is unique and offers the opportunity for Roanoke to showcase itself

in a leadership capacity to other communities of its size and larger throughout the country. He called attention to the possible involvement of the Blue Ridge Chapter of the AIA, the Roanoke Regional Homebuilders Association, Blue Ridge Housing Development Corporation, Northwest Neighborhood Environmental Organization, housing authorities of other groups that focus on housing issues, and market rate builders. He stated that his purpose in appearing before the Council is to request that specific sites be made available within the City of Roanoke to be featured on the competition web page and in certain literature that will be transmitted to potential entrants. He explained that the current plan is for the competition jury to convene in Roanoke to review 1,000 or more designs based on specific sites in Roanoke, then move to the construction phase of the project, so that ideally the designs would be taken from the competition as juried in Roanoke, with actual construction of a number of the designs based on available funding, much of which is hoped to come from donation by national building material suppliers. He advised that another important aspect of the proposal is to include schools of architecture from around the country and the world; a number of schools offer design build programs in their curricular; students have participated in internationally administered design competitions, followed by building the projects which is not unlike a Habitat for Humanity, or a Build-a-Thon, or a Home-Aroma; and there would be an opportunity for the City of Roanoke and organizations such as the Chamber of Commerce, church groups, businesses groups, etc., to host students during the summer of 2005 to participate in what could be called a modern day equivalent of the American "barn raising" where a number of houses could be constructed during the course of the summer, in partnership with home builders, the local design community, and students, both local to the Roanoke community and from around the world.

Mr. Lewis opened the floor for comments/suggestions by Council.

There was discussion in regard to:

- Incentives or motivation for individuals to participate in the housing design competition.
- Locations that will be offered as potential construction sites.

- Involvement by Virginia Tech in the program.
- What is the optimum degree of support that the City will provide?
- Conversion of the “cracker box” style house into something that is more fitting within the neighborhood.
- Does the City have an inventory of sites that could be made available for the project?

Mr. Lewis responded that the more specific the information is at the outset, the more specific the solutions will be to Roanoke and to those specific issues faced by Roanoke in the housing community; responses will be site specific and it is hoped to offer prototypical sites within the City of Roanoke, i.e.: one in southeast, one in southwest, one in Gainsboro, one in downtown, etc., and provide as much information as possible regarding potential sites; schools of architecture that decide to participate as a studio based project could send groups of students to Roanoke to familiarize themselves with the community and to view the sites firsthand; students would be furnished with photographs of adjacent houses on the blocks in question, topographic information, code and zoning information, and a comprehensive look at specific sites so that proposed designs will be usable and serve the needs of the various communities.

It was emphasized that Virginia Tech is the home school and has been significantly involved in the program from the beginning; and faculty of Virginia Tech is reviewing the program in terms of establishing a studio based project at Virginia Tech and at the University of Virginia.

Mr. Lewis requested the City’s support by making specific sites available in the City of Roanoke and that the Housing Design Competition program be permitted to link to the City’s website, showing the City’s new logo as an expression of support.

The City Manager advised that several years ago, the City agreed to provide approximately \$25,000.00 to the Roanoke Regional Housing Network to develop the Housing Design Competition, and an additional allocation of \$25,000.00 was recently approved; and approximately 15 sites that are owned either by the City, or the Roanoke Redevelopment and Housing Authority, or Blue Ridge Housing Network have been identified as appropriate sites. She stated that the City wishes to ensure that the Housing Design Competition is not seen exclusively as a competition for

low and moderate income housing; Council has discussed the need to change the concentration of different types of housing within the City of Roanoke; and if the project moves forward, it is anticipated that there may be some level of interest on the part of private property owners to make their property available for construction of these kinds of award winning projects. She stated that if most of the building materials are donated by major building material companies, actual cost of construction of many of the houses will be less than on the open market; there are ongoing efforts with other major organizations in the community that own property for this type of purpose; specific sites will be submitted to Council prior to inclusion on the City's website; and there may be a need for additional monetary investment at some time in the future, which will be determined following nationwide publication of the effort and the level of interest that is expressed.

During further discussion, the City Manager advised that there is a need to diversify the kind of housing that exists in the Roanoke community; there is a need to change demographics relative to the percentage of homeowners, inasmuch as the City of Roanoke has the lowest percentage of homeowners in the Roanoke Valley; there is a need to change the value of housing within the City because over 75 per cent of City houses are currently valued at \$100,000.00, or less; and the City has not, in the broadest sense of the community, invested in new housing to any degree, nor until very recently has it demonstrated an interest in changing certain housing character.

Ms. Prince advised that the Roanoke Regional Housing Network has been working on the project for approximately five years; with the assistance of the City, startup money was allocated to begin design of competition and development work; a grant was received from the National AIA for outreach into Roanoke's neighborhoods and to help the neighborhoods understand that it is possible to design away social problems; however, development efforts came to a crashing halt with the occurrences of September 11, 2001, all of which caused the Regional Housing Network to fall back and regroup. She stated that a good relationship has been maintained with Virginia Tech, and in the Spring of 2001, architectural students from Virginia Tech worked throughout the summer on a house in southeast Roanoke (Southeast by Design) by interviewing residents of southeast, business owners, and representatives of churches that own large plots of empty land, and they gained an understanding of not only the topography of southeast Roanoke, but also of community needs.

In addition, she stated that the program will create good and appropriate infill for Roanoke's various neighborhoods because what is appropriate to Old Southwest

because of its historical overlay will be different than that which is appropriate for properties in other City neighborhoods. She stated that part of the competition, in addition to sustainable and affordable development, will be accessibility for the handicapped, which is an issue that needs to be considered in design elements.

Robert Fetzer, President, Business Specialist, spoke with regard to certain historically incompatible housing that is being constructed in some of Roanoke's neighborhoods, which create a blotting and deteriorating impact on the overall quality of the neighborhood; and the goal of the Housing Design Competition is to encourage good design and sound decisions. He endorsed the Housing Design Competition project and expressed excitement with regard to potential designs and concepts, and advised that Habitat for Humanity, the Blue Ridge Housing Network and other non profit housing providers have endorsed the design competition. He stated that affordability does not have to be sacrificed for good design because it can all come together, the proposed concept fits into the City's Comprehensive Plan, and will set new standards for housing in the design community nationally by setting the bar for Roanoke City to receive this kind of national recognition.

Michael Etienne, Director, Housing and Neighborhood Services, expressed appreciation to Council for supporting the Housing Design Competition effort. He stated that housing competition is a part of the City's efforts to build strong neighborhoods while working in partnership with the local Roanoke Redevelopment and Housing Authority, Blue Ridge Housing Development Corporation, Northwest Neighborhood Environmental Organization and Habitat for Humanity to identify specific sites that will be made available for design competition. He advised that City staff will provide Council with a map illustrating proposed sites for the Housing Design Competition.

ZONING: R. Brian Townsend, Director, Planning and Code Enforcement, advised that the proposed zoning ordinance and zoning map consisting of 210 pages is posted on the City's website; the draft document will go through a public review prior to scheduling focus group meetings; public workshops will be held throughout the community; a draft will be available at the Roanoke Public Library and branch libraries; copy will be forwarded to each neighborhood organization along with the appropriate zoning map, to the City Planning Commission, the Board of Zoning Appeals and the Architectural Review Board; and the document will be available to interested persons in the business, design or development community at a cost of \$10.00 per hard copy. He advised that Nancy Snodgrass, City Planner, served as project manager for the zoning ordinance, which represents the next step of the process involving community input; and Chris Chittum served as project

manager for the zoning map which is the first cut of 42 square miles of the City; and at least three to four months will be devoted to the public discussion phase.

There was discussion in regard to ensuring that developers are aware of the document and may provide input; whereupon, Mr. Townsend advised that focus groups will be reconvened, one of which will include the development community, to engage in detailed discussions regarding regulations, etc., and to ensure that all stakeholders have an opportunity for review, questions and comments during the three to four month public input period.

Mr. Townsend advised that questions should be directed to him, or to Ms. Snodgrass and Mr. Chittum; over the next three to four months, they will document all questions and comments, convene the steering committees for the purpose of reviewing all comments and questions, review the draft ordinance and make revisions as appropriate prior to submitting the zoning ordinance to the public hearing process. He stated that many new initiatives are included in the zoning ordinance that were called for in the City's Comprehensive Plan, and the City has not used such regulatory measures before, therefore, the City of Roanoke is breaking new ground.

At 11:10 a.m., the Mayor declared the Council meeting in recess, to be immediately reconvened in the Council's Conference Room to conduct three Closed Sessions.

At 12:30 p.m., the Council meeting reconvened in the Council Chamber, with all Members of the Council in attendance, Mayor Smith presiding.

COUNCIL: With respect to the Closed Session just concluded, Mr. Bestpitch moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

At 12:32 p.m., the Mayor declared the Council meeting in recess until 2:00 p.m., in the City Council Chamber.

At 2:00 p.m., on Monday, February 2, 2004, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Smith presiding.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt, and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with a prayer by The Reverend Peter M. Watts, Pastor, Roanoke Seventh Day Adventist Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PRESENTATIONS AND ACKNOWLEDGMENTS:

MANAGEMENT AND BUDGET-ACTS OF ACKNOWLEDGEMENT: The Mayor presented a Plaque and Certificate of Recognition for Budget Preparation to Sherman Stovall, Acting Director, Management and Budget. He advised that the award is issued by The Government Finance Officers Association of the United States and Canada and represents the highest award in governmental budgeting and is presented to those government units whose budgets are judged to adhere to program standards.

PROCLAMATIONS-LIBRARIES: The Mayor presented a proclamation declaring February 2004, as "Love Your Library Month".

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, the item would be removed from the Consent Agenda and considered separately.

EASEMENTS-APPALACHIAN POWER COMPANY-SCHOOLS: A communication from the City Manager requesting that Council schedule a public hearing for Tuesday, February 17, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, to authorize conveyance of an easement to Appalachian Power Company at the Roanoke Academy for Mathematics and Science, was before the body.

Mr. Cutler moved that Council concur in the request of the City Manager. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

EASEMENTS-SPECIAL PERMITS: A communication from the City Manager requesting that Council schedule a public hearing for Tuesday, February 17, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to encroachment into public right-of-way of an awning at 105 S. Jefferson Street, was before the body.

Mr. Cutler moved that Council concur in the request of the City Manager. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

OATHS OF OFFICE-COMMITTEES-BLUE RIDGE BEHAVIORAL HEALTHCARE-ARCHITECTURAL REVIEW BOARD-HUMAN DEVELOPMENT-JUVENILE CORRECTIONAL FACILITIES:

The following reports of qualification were before Council:

Sheri Bernath as a City Representative to the Blue Ridge Behavioral Healthcare Board of Directors, for a term ending December 31, 2006;

Barbara A. Botkin as a member of the Architectural Review Board, for a term ending October 1, 2006;

Jane R. Conlin as a member of the Human Services Committee, for a term ending June 30, 2004; and a member of the Roanoke Valley Juvenile Detention Center Commission, for a term ending June 30, 2006.

Mr. Cutler moved that the report of qualification be received and filed. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS: NONE.

REPORTS OF OFFICERS:

CITY MANAGER:

ITEMS RECOMMENDED FOR ACTION:

CITY EMPLOYEES: A communication from the City Manager advising that military leave at full pay is limited to 15 work days per Federal fiscal year for employees of the City of Roanoke who are military reservists called to active duty; Council approved special military pay on November 5, 2001, to provide supplemental pay for military reservists called to active duty related to the war on terrorism; this special Council action was effective through September 30, 2003, and benefited

eight City employees called from reserves to active duty; these employees received a total of \$30,290.00 in supplemental pay as a result of Council’s action; and there are 40 reservists in 12 departments within the City of Roanoke full time employment.

The City Manager recommended that Council approve a special policy to pay military reservists who are called to active duty and serve between October 1, 2003 and September 30, 2004, the difference between their military base pay (including any other related compensation received from the military) and pay with the City of Roanoke in their current job; covered employees would be those reservists who are called to active duty related to the country’s war on terrorism subsequent to the employee’s employment with the City of Roanoke; and the supplemental pay will be provided upon request and with the necessary documentation to the Department of Human Resources.

Mr. Bestpitch offered the following resolution:

(#36611-020204) A RESOLUTION authorizing payment of supplementary compensation and restoration of certain benefits to employees who are called to active military duty and serve between October 1, 2003 and September 30, 2004.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Bestpitch moved the adoption of Resolution No. 36611-020204. The motion was seconded by Ms. Wyatt and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

CITY CODE-FIRE DEPARTMENT: The City Manager submitted a communication advising that effective October 1, 2003, the Virginia Department of Housing and Community Development adopted the year 2000 edition of the Virginia Statewide Fire Prevention Code (SFPC), for the purpose of establishing minimum regulations to govern the enforcement of fire codes for buildings and structures; provisions of the SFPC are based on nationally recognized model fire prevention codes published by the International Code Council, Inc., and are made part of the SFPC by reference; and the SFPC also contains administrative provisions governing the use of the model codes and establishing requirements for enforcement of the code by the local fire departments and other code agencies.

It was further advised that amending the Code of the City of Roanoke will reflect recent amendments to the Virginia Statewide Fire Prevention Code, by referring to updated code sections that were adopted by the State, and are enforced at the local level.

The City Manager recommended that Council adopt an ordinance amending Sections 12-16, 12-17, 12-18, 12-19, and 20-74 of the Code of the City of Roanoke 1978, as amended, to bring the City Code into conformity with recent amendments to the Virginia Statewide Fire Prevention Code.

Mr. Fitzpatrick offered the following ordinance:

(#36612-020204) AN ORDINANCE amending and reordaining §12-16, Adoption of Virginia Statewide Fire Prevention Code; §12-17, Definitions; §12-18, Amendments; and §12-19, Enforcement, of Article II, Fire Prevention Code, of Chapter 12, Fire Prevention and Protection, and §20-74, Parking, stopping or standing in a fire lane, of Division 1, Generally, of Article IV, Stopping, Standing and Parking, of Chapter 20, Motor Vehicles and Traffic, of the Code of the City of Roanoke (1979), as amended, to update code enforcement regulations; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36612-020204. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

FIRE DEPARTMENT-GRANTS: The City Manager submitted a communication advising that the Fire Programs Fund was established by the General Assembly, effective October 4, 1985, pursuant to Section 38.1-44.1 of the Code of Virginia; and the sunset clause requiring expiration of the Fire Programs Fund on July 1, 1990 was removed, thus, the City's annual allocation of State funds will continue indefinitely.

It was further advised that Program guidelines require that funds received are non-supplanting and may not be used to replace existing local funding; funds must be used in accordance with provisions established by the State Department of Fire

Programs; and the City of Roanoke's allocation of \$127,201.85 was deposited into Account No. 035-520-3234-3234 from the Department of Fire Programs.

It was explained that the City's portion of the Roanoke Regional Fire-EMS Training Center debt service is \$60,000.00, which is paid annually from this revenue source; and action by Council is needed to formally accept and appropriate funds, and to authorize the Director of Finance to establish revenue estimates and appropriate accounts in the Grant Fund to purchase equipment and supplies in accordance with provisions of the Fire Programs Fund.

The City Manager recommended that she be authorized to accept the grant, to file documents setting forth conditions of fiscal year 2004 Fire Programs Funds Grant, and to furnish such additional information as may be required; and that Council appropriate grant funds totaling \$127,202.00, with corresponding revenue estimates, in accounts to be established by the Director of Finance in the Grant Fund.

Mr. Dowe offered the following budget ordinance:

(#36613-020204) AN ORDINANCE appropriating funds for the Fire Program Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36613-020204. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

Mr. Dowe offered the following resolution:

(#36614-020204) A RESOLUTION authorizing the acceptance of the fiscal year 2004 Fire Programs Funds Grant made to the City of Roanoke by the Virginia Department of Fire Programs and authorizing the execution and filing by the City Manager of any documents required by the grant.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36614-020204. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

Ms. Helen E. Davis, 35 Patton Avenue, N. E., inquired about the status/location of the City's new fire stations.

The City Manager reported that approximately two years ago, the Fire Chief presented to the Council a master plan for the Fire-EMS Department that contained a number of recommendations, including the eventual replacement/consolidation of a number of fire stations. She advised that the first fire station that was recommended for replacement/consolidation was what is referred to as the headquarters station; Council authorized the purchase of property located at the intersection of Elm Avenue and Franklin Road (east side) and the project is under design; and the building, when constructed, although the construction budget has yet to be approved by Council, will eventually allow for consolidation of staff and equipment that are currently located at Fire Station No. 1, which is located on Church Avenue and Fire Station No. 3. She explained that the Capital Improvement Budget Five Year Plan which was adopted by Council does not provide for construction or modification of additional fire stations until fiscal year 2006-07, and planning for the two stations would have to occur in advance of that date; the budget is tentatively shown for construction of a station in the Williamson Road area to replace Fire Station No. 10, which is currently located at the airport, and a consolidation of Fire Stations 5 and 9 in an area that has been generally defined as the Melrose Avenue area (no specific site has been identified); all fire stations will remain open until their replacement is constructed so that there will be no loss of service in any area; a series of meetings were held in Roanoke's neighborhoods to explain the master plan, and at the time that the Council considers a capital budget for any or all of the above referenced fire stations, a public hearing will be held as a part of the City's operating budget and capital improvements program budget, at which time all citizens will be given the opportunity to comment.

ROANOKE PASSENGER STATION RENOVATION PROJECT: The City Manager submitted a communication advising that the Roanoke Passenger Rail Station has been redeveloped by the Western Virginia Foundation for the Arts and Sciences (WVFAS) for use by the Roanoke Valley Convention and Visitors Bureau and the O. Winston Link Museum; the City of Roanoke's Capital Improvement Program includes a funding commitment from the City of \$1,500,000.00 for the project; State funding of almost \$1,488,000.00 has been provided through Transportation Enhancement and High Priority funding categories of the Virginia Department of Transportation; of the City's funding commitment, \$250,000.00 was provided to the WVFAS by Council action in December 2000 (Ordinance No. 35170-121800); and the balance of \$1,250,000.00 was the subject of a formal agreement between WVFAS and the City of Roanoke which included certain conditions by which the funds would be provided to WVFAS (authorized by Council Resolution No. 36068-091602).

It was further advised that conditions include acquisition of matching funds and securitization of an agreement with the O. Winston Link Estate for display of the O. Winston Link art/photo collection in the renovated facility; disbursement of the \$1,250,000.00 is to be made in two equal payments of \$625,000.00, subject to satisfaction of conditions of the agreement; the first payment of \$625,000.00 was made in fiscal year 2002-2003; the second payment will occur in fiscal year 2003-2004; a funding appropriation for the second payment is needed at this time, and conditions for the payment have been satisfied.

The City Manager recommended that Council appropriate \$625,000.00 from Capital Projects Fund Interest Earnings (008-3325) to the Roanoke Passenger Station Renovation Account (008-530-9900-9003) for disbursement to the Western Virginia Foundation for the Arts and Sciences.

Mr. Cutler offered the following budget ordinance:

(#36615-020204) AN ORDINANCE to appropriate funding for the Roanoke Passenger Station Renovation Project, amending and reordaining certain sections of the 2003-2004 Capital Projects Fund Appropriations and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Cutler moved the adoption of Ordinance No. 36615-020204. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

SIGNS/BILLBOARDS/AWNINGS-SPECIAL PERMITS: The City Manager submitted a communication advising that Trustees of Roanoke College, owners of property located at 616 Jefferson Street, S. E., have requested permission for a tenant, Mai Chen, owner of China City restaurant, to retain an awning sign that encroaches into the public right-of-way of Jefferson Street.

It was further advised that the revocable encroachment extends approximately 2.5 feet into the right-of-way of Jefferson Street, at a minimum height above the sidewalk of ten feet; the awning is four feet high; the right-of-way of Jefferson Street at this location is approximately 68 feet in width; and liability insurance and indemnification of the City by the applicant shall be provided, subject to approval of the City's Risk Manager.

The City Manager recommended that Council adopt an ordinance, to be executed by the property owner, and recorded in the Clerk's Office of the Circuit Court for the City of Roanoke, granting a revocable license to the property owner at 616 Jefferson Street, to allow the awning sign that encroaches into the right-of-way of Jefferson Street to remain in place.

Mr. Fitzpatrick offered the following ordinance:

(#36616-020204) AN ORDINANCE granting a revocable license to permit the encroachment of an awning at a minimum height above the sidewalk of 10', extending approximately 2½ feet in the public right-of-way of Jefferson Street, S. E., from property bearing Official Tax No. 4011913, upon certain terms and conditions; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36616-020204. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

CITY CLERK:

OATHS OF OFFICE-SCHOOLS: The City Clerk submitted a written report advising that pursuant to Chapter 9, Education, Code of the City of Roanoke (1979), as amended, establishing a procedure for the election of School Trustees, the three-year terms of office of Alvin L. Nash and Ruth C. Willson will expire on June 30, 2004.

It was further advised that pursuant to Section 9-16, Code of the City of Roanoke (1979), as amended, on or before February 15 of each year, Council shall announce its intention to elect Trustees of the Roanoke City School Board for terms commencing July 1 through public announcement of such intention at two consecutive regular sessions of the Council and advertisement of such intention in a newspaper of general circulation in the City twice a week for two consecutive weeks.

It was explained that Section 9-17 of the City Code provides that applications must be filed in the City Clerk's Office by March 10 of each year; applications will be available in the City Clerk's Office and may be obtained between the hours of 8:00 a.m., and 5:00 p.m., Monday through Friday, or applications may be completed online at the City of Roanoke's web page www.roanokegov.com; and information describing the duties and responsibilities of School Trustees may be obtained in the City Clerk's Office.

There being no questions or comments, without objection by Council, the Mayor advised that the report would be received and filed.

DIRECTOR OF FINANCE:

AUDITS/FINANCIAL REPORTS: The Director of Finance submitted the Financial Report for the month of December 2003.

There being no questions or comments, without objection by Council, the Mayor advised that the Financial Report for the month of December would be received and filed.

REPORTS OF COMMITTEES: NONE.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR AND MEMBERS OF COUNCIL:

CITY TREASURER-MANAGEMENT AND BUDGET-CITY INFORMATION SYSTEMS: Council Member Wyatt requested an update on integration of technology between the City Treasurer's Office, the Finance Department and the Office of Management and Budget.

DECEASED PERSONS: The Mayor called for a moment of silence in memory of the late Dr. Nora Kiser Bell, former President, Hollins University.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard and matters requiring referral to the City Manager will be referred immediately for response, recommendation or report to Council.

TAXES-ARMORY/STADIUM-REAL ESTATE VALUATION: Mr. John E. Kepley, 2902 Morrison Street, S. E., expressed concern with regard to constructing a fire station at the proposed Elm Avenue site.

He advised that on Saturday, February 7, 2004, the citizens of the City of Roanoke will decide who they want to represent them on City Council at the Democratic Party "fire house" primary. He stated that the majority of the present Council has been insensitive to the voice of its constituents and has ignored the request of citizens concerning Victory Stadium. He advised that Council voted for a \$119 million bond issue, and funds were to be used to tear down the present Patrick Henry High School to build a new facility; Council approved another \$344 million bond issue which will lead to even greater debt for Roanoke's taxpayers; and real estate taxes have escalated by 22.25 per cent during the past five years according to the Office of Real Estate Valuation. He stated that the citizens of Roanoke City should be informed concerning this increase in taxes and their voices should and

will be heard on Saturday, February 7, at the Democratic “firehouse” primary.

Mr. Jim Fields, 17 Ridge Crest Road, Hardy, Virginia, spoke in support of renovating Victory Stadium. He stated that the citizens of Roanoke have expressed their support of the stadium through petitions, telephone calls to Council members, and their statements at City Council meetings. He advised that the City of Roanoke does not own Victory Stadium – the facility belongs to the taxpayers of Roanoke; and the property was given to the City in 1941 by the Norfolk and Western Railway Company, with the understanding that the City would maintain the stadium and later the National Guard Armory. He added that Victory Stadium can be used again with some modernization and an amphitheater can be constructed near Victory Stadium; with the proper marketing by the City, Victory Stadium can and will be used and will generate additional revenue for the City through such activities as college football games, Fiddle Fest, etc.; and Victory Stadium should be maintained in memory of the sacrifices of World War II veterans. He again requested that a United States Flag be flown over Victory Stadium. He advised that the Roanoke Civic Center is not being properly promoted and called attention to the small number of events that are booked at the Civic Center during the month of February.

Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., spoke with regard to neighborhood abuse, and alleged that six positions were eliminated from the City’s Planning and Code Enforcement division. She advised that the Gainsboro neighborhood has worked long and hard to encourage the City of Roanoke to enforce code regulations in reference to inappropriate and unwanted houses in the area; the Gainsboro community has tried to help private citizens who wish to invest in the area, and she referred to two individuals who have encountered difficulty with the City in doing so. She stated that the City should encourage private investors to the area and provide assistance in connection with obtaining loans or grants to rehabilitate houses. She advised that Gainsboro residents will not stand idly by and accept neighborhood abuse; and she would document her statement, if necessary, in an effort to help Gainsboro residents to improve their neighborhood as a residential and historical area and to attract people who are willing to invest in the area.

CITY MANAGER COMMENTS:

**TAXES-NEIGHBORHOOD ORGANIZATIONS-HOUSING/AUTHORITY-
COMMUNITY PLANNING-TAXES-REAL ESTATE VALUATION-CITY EMPLOYEES-
SNOW REMOVAL:** With regard to the previous remarks of Ms. Bethel, the City Manager advised that six code enforcement positions were moved from Planning

and Code Enforcement to the Department of Housing and Neighborhood Services to address code enforcement issues in the City's neighborhoods in a more aggressive manner. She respectfully disagreed that the City of Roanoke is not providing the necessary attention to its neighborhoods; the City has identified the Gainsboro community for the next round of Community Development Block Grant money to complete redevelopment and revitalization of the neighborhood; and the City supports any available private investment and development. She stated that the Assistant City Manager for Community Development will meet with Ms. Bethel following the Council meeting to obtain more specific information with regard to the issue of private interest investment in the Gainsboro neighborhood.

She addressed the previous remarks of Mr. Kepley regarding an increase in real property taxes and advised that the method of real estate assessments in the City of Roanoke is not the responsibility of the City Manager, but the Office of Real Estate Valuation; State Code requires an annual reassessment of real property, and the percentage of increase in real property assessments in the City of Roanoke is at or below those of other Virginia cities.

The City Manager expressed appreciation to City staff for their efforts to clear City streets of snow and ice during the most recent snow event last week which enabled City schools to reopen on Wednesday, as opposed to the Friday reopening by other school divisions in the Roanoke Valley.

COMMITTEES-TOTAL ACTION AGAINST PROVERTY: The Mayor advised that there is a vacancy on the Total Action Against Poverty Board of Directors, and called for nominations to fill the vacancy.

Mr. Bestpitch placed in nomination the name of James T. Weber.

There being no further nominations, Mr. Weber was appointed as an Alternate Member to the Total Action Against Poverty Board of Directors, by the following vote:

FOR MR. WEBER: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

Inasmuch as Mr. Weber is not a City resident, Mr. Bestpitch moved that the City residency requirement be waived. The motion was seconded by Mr. Harris and unanimously adopted.

PARKS AND RECREATION-COMMITTEES: The Mayor advised that there is a vacancy on the Parks and Recreation Advisory Board, to fill the unexpired term of The Reverend David Walton, ending March 31, 2005, and called for nominations to fill the vacancy.

Mr. Bestpitch placed in nomination the name of Robert C. Jones.

There being no further nominations, Mr. Jones was appointed as a member of the Parks and Recreation Advisory Board, for a term ending March 31, 2005, by the following vote:

FOR MR. JONES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

At 3:00 p.m., the Mayor declared the Council meeting in recess until Tuesday, February 10, 2004, at 12:00 noon, at the Roanoke County Administration Center, Fourth Floor Conference Room, 5204 Bernard Drive, S. W., for a joint meeting of City Council and the Roanoke County Board of Supervisors, to continue discussions with regard to the proposed Western Virginia Water Authority.

The meeting of Roanoke City Council reconvened on Tuesday, February 10, 2004, at 12:00 noon at the Roanoke County Administration Center, Fourth Floor Conference Room, 5204 Bernard Drive, S. W., Roanoke, Virginia, for a joint meeting of Roanoke City Council and the Roanoke County Board of Supervisors, with Mayor Ralph K. Smith and Chairman Richard W. Flora presiding.

ROANOKE CITY COUNCIL MEMBERS PRESENT: William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

The Mayor declared the existence of a quorum.

ROANOKE COUNTY BOARD OF SUPERVISORS PRESENT: Michael W. Altizer, Joseph McNamara, Michael A. Wray, and Chairman Richard C. Flora-----4.

ABSENT: Supervisor Joseph B. Church-----1.

STAFF PRESENT:

Representing the City of Roanoke: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; Mary F. Parker, City Clerk; George C. Snead, Jr., Assistant City Manager for Operations; Rolanda B. Russell, Assistant City Manager for Community Development; and Michael T. McEvoy, Director of Utilities.

Representing Roanoke County: Elmer C. Hodge, County Administrator; Paul M. Mahoney, County Attorney; Diane Hyatt, Director of Finance; Diane S. Childers, Clerk to the Board; John M. Chambliss, Jr., Assistant County Administrator; Dan O'Donnell, Assistant County Administrator; and Gary Robertson, Director of Utilities.

OTHERS PRESENT: H. Odell Minnix and Robert C. Lawson, Jr., Board of Directors-Elect, Western Virginia Water Authority.

The invocation was delivered by John M. Chambliss, Jr., Assistant County Administrator.

The Chairman welcomed everyone to the meeting and advised that following lunch, the business portion of the meeting would convene.

At 12:35 p.m., the business session reconvened and Chairman Flora called upon Mike Mussman, Project Manager, Appraisal and Rate Studies Reports, Black and Veatch, Consultants, for a presentation.

Mr. Mussman advised that Black and Veatch was supported in the rate study process by Draper Aden Associates; the reports are currently in the evolutionary phase, therefore, only draft summary findings will be reviewed; and calculations have not circulated through Black and Veatch quality control review, nor have all of the reports been thoroughly written. He explained that objectives of the study were to look at equitable contributions per customer for both Roanoke City and Roanoke County, to determine costs of a financially viable utility if 2004 budgets of the City and the County are merged, to perform cost of service studies to determine what constitutes fair and equitable rates for providing water and sewer service, and to evaluate a phase in approach. He stated that the City wants a longer phase in period and the County wants a shorter phase in period for the Authority; and in order to reach an equity determination, good and solid fixed assets for property records information was needed which required an appraisal of City and County utility properties. He introduced Bill Aden, representing Draper Aden and Associates.

Mr. Aden stated that the job of Draper Aden Associates was to prepare an inventory of the water and sewer system for the County and the City, which was a massive responsibility; whereupon, he called upon Randall Hancock, Project Manager, to review the findings.

Mr. Hancock stated that Draper Aden's task was to prepare quantities, age, and cost of all water and sewer facilities owned by the City of Roanoke and Roanoke County; City and County information was assessed, meetings were held with City and County staff, spreadsheets were prepared which involved separate data bases; some information was available in electronic format by going through the City's and the County's GIS systems; Roanoke City has not reached the same point as Roanoke County in developing its GIS system, especially in regard to sewer, therefore, it was necessary to use old sewer plans and prepare manual takeouts, and manually measure and quantify all information. In collecting the information, he stated that it was necessary to determine the age of water and sewer facilities which was a more difficult task, some of the information was listed in the City's and the County's records, otherwise estimations were made. He added that they looked at all water and sewer facilities; lines, pump stations, fire hydrants, water meters, water sources in the City such as Carvins Cove, springs and new wells that were recently drilled; and they also looked at well systems and the Spring Hollow Reservoir in Roanoke County in an effort to place a value based on financial information from the City and the County, and they arrived at replacement costs for those facilities that did not already have attached values. He stated that not every City and County site was visited; but water treatment facilities for both the City and the County were visited and data was compiled on spreadsheets and turned over to Black and Veatch for valuation.

The following is a summary of the presentation by Mr. Mussman on the appraisal and rate study reports.

Initial objectives of the study include:

- Equity Contributions per customer determination**
- Costs for a financially viable utility Authority**
- Fair and equitable general service rates for parties**
- Evaluation of rate phase-in**
- Virginia State Corporation Commission support (if needed)**

Equity Determination Approach:

- Appraisal of County and City utility property**
- Draper Aden Associates and parties inventories**

- Black & Veatch RCLD current value estimate
- Findings used for equity and rate purposes
- DAA report support for GASB 34 Asset reporting
- $\text{Equity} = \text{Property Value} - \text{Debt Principal} + \text{Cash}$
- $\text{Equity per Customer} = \text{Equity} \div \text{Number of Customers}$
 - Current number of customers served
 - Number of Customers Served by Reserved Capacity

Rate Studies' Project Approach:

- Authority revenue requirements determination
- Excludes major capital program financing
- Industry - approved allocation methodologies
 - AWWA Base-Extra Capacity for water rates
 - WEF functional cost method for sewer rates
- Cost of service allocations - first and end targets
- Parties' annual unit revenue as guide to phasing
- Typical bills showing rate impact on customers

Initial Draft Report Findings:

- Per customer equity reasonably close
 - Based on asset value less debt
 - Current customers served
- Rate studies showed phasing feasible
 - Cost of service allocations used as guide
 - Unit revenue same after six years
 - Service charge + volume charge suggested
- Any rate form usable with unit revenue guides

Revised Study Direction:

- Updated fiscal year 2004 budget data employed
- Contributed available funds reflected
- County agreeable to using City rate form
- Rate merger scenarios feasibility evaluated
 - Three years, six years and ten years
 - County - Uniform Linear Rate changes
 - City - specified annual change limits

FY 2005 Equity - Per Customer Water and Wastewater Combined:

<u>Exceptions</u>	<u>City</u>	<u>County</u>
Current ownership (a)	\$12,300.00	\$ 8,900.00
w/o City land (b)	11,600.00	8,900.00
w/o land, w/capacity (c)	10,400.00	11,200.00
w/o land, capacity, growth (d)	10,400.00	10,900.00
w/land, capacity, growth	11,000.00	10,900.00

(a) Value of fixed assets, minus debt, plus cash prior to Authority transfer.

(b) City loans to retain 82.2 per cent of its Water Utility land.

(c) Capacity means County's reservation of WWTP capacity.

(d) Customer growth reflects County's increase in accounts over ten years.

Three-Year Phase-in:

<u>Monthly Charges</u>	<u>FY '05</u>	<u>FY '06</u>	<u>FY '07</u>
WATER:			
County Base (a)	\$9.08	\$6.17	\$3.25
County Volume (b)	2.35	2.65	2.95
City Base (a)	3.25	3.25	3.25
City Volume (b)	2.43	2.69	2.95
SEWER:			
County Base (a)	7.08	5.17	3.25
County Volume (b)	2.00	2.47	2.95
City Base (a)	1.08	2.17	3.25
City Volume (b)	2.71	2.83	2.95

(a) Per 5/8 - inch meter equivalency each bill

(b) Per 1,000 gallons

Impact on FY '2005 Customers' Monthly Bills - Three-Year Phase-in:

<u>Meter Size/Usage</u>	<u>FY '04</u>	<u>FY '05</u>	<u>Change</u>
WATER:			
County 5/8" - 5,000 gal.	\$22.12	\$ 20.83	(\$1.29)
City 5/8" - 5,000 gal.	14.15	15.40	\$1.25

SEWER:

County 5/8" - 5,000 gal	16.48	17.08	0.60
City 5/8" - 5,000 gal.	12.97	14.63	1.66

(a) Monthly Water Bills do not include City and County Utility Tax

Six-Year Phase-in:

<u>Monthly Charges</u>	<u>FY '05</u>	<u>FY '07</u>	<u>FY '10</u>
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WATER:

County Base (a)	\$10.54	\$ 7.63	\$ 3.25
County Volume (b)	2.20	2.50	2.95
City Base (a)	3.25	3.25	3.25
City Volume (b)	2.30	2.56	2.95

SEWER:

County Base (a)	8.04	6.13	3.25
County Volume (b)	1.76	2.24	2.95
City Base (a)	0.54	1.63	3.25
City Volume (b)	2.65	2.77	2.95

(a) Per 5/8-inch meter equivalency each bill

(b) Per 1000 gallons

Impact on FY 2005 Customers' Monthly Bills - Six Year Phase-in:

<u>Meter Size/Usage</u>	<u>FY - 04</u>	<u>FY '05</u>	<u>Change</u>
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WATER:

County 5/8" - 5,000 gal.	\$22.12	\$21.54	(\$0.58)
City 5/8" - 5,000 gal.	14.15	14.75	\$0.60

SEWER:

County 5/8" - 5,000 gal.	16.48	16.84	0.36
City 5/8" - 5,000 gal.	12.97	13.74	0.77

- Monthly bills do not include City and County Utility Tax.

Ten Year Phase-in:

<u>Monthly Charges</u>	<u>FY '05</u>	<u>FY '10</u>	<u>FY '14</u>
WATER:			
County Base (a)	\$11.13	\$ 6.75	\$ 3.25
County Volume (b)	2.14	2.59	2.95
City Base (a)	3.25	3.25	3.25
City Volume (b)	2.25	2.64	2.95
SEWER:			
County Base (a)	8.43	5.55	3.25
County Volume (b)	1.66	2.38	2.95
City Base (a)	0.33	1.95	3.25
City Volume (b)	2.63	2.81	2.95

(a) Per 5/8 inch meter equivalency each bill

(b) Per 1,000 gallons

Monthly Bills - Ten Year Phase-in:

<u>Meter size/usage</u>	<u>FY '04</u>	<u>FY ' 05</u>	<u>Change</u>
WATER:			
County 5/8" - 5,000 gal.	\$22.12	\$21.83	(\$0.29)
City 5/8" - 5,000 gal.	14.15	14.50	0.35
SEWER:			
County 5/8" - 5,000 gal.	16.48	16.73	0.25
City 5/8" - 5,000 gal.	12.97	13.48	0.51

- Monthly water bills do not include City and County Utility Tax.

Conclusions:

- Rates for all proposed merger scenarios
 - Maintain Authority's financial health
 - Generate slightly more than target revenue
 - Provide cushion for major capital financing
 - Result in fair and equitable rates
- Longer phase-in periods
 - Minimize bill impacts
 - Delay customers paying same rates
- Recommend six year phase-in period
- Results should meet VASCC regulations on rate equity

Purpose of Final Report

- Address identified issues
- Identify appropriate annual utility costs
- Plan for a financially healthy utility
- Guide rate level or rate form adjustments
- Recognize alternative rate phasing – three, six, ten years
- Provide a guide for future Authority business decisions
- Not a budget or a long-range financial plan

Ms. Burcham advised that the steering committee, composed of representatives of Roanoke City and Roanoke County, support the Black & Veatch recommendation for a six year phase in of monthly water and sewer charges.

Following discussion, Mr. Fitzpatrick moved that Roanoke City Council support a six year phase in of monthly water and sewer charges. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

NAYS: None-----0.

By roll call vote, the Roanoke County Board of Supervisors also supported a six year phase in of monthly water and sewer charges.

On behalf of Roanoke City staff, the City Manager expressed appreciation to Council for providing the latitude for staff to work on the project with their Roanoke County counterparts.

Chairman Flora expressed appreciation to Roanoke County staff for their many contributions to move the project forward.

Brent Reuss, Vice President, Black & Veatch, Consultants, expressed appreciation to City and County staffs for their assistance in meeting an aggressive time schedule.

The importance of keeping citizens informed about the proposed Western Virginia Water Authority and actions yet to be taken was discussed. It was mentioned that representatives of the City of Roanoke and Roanoke County could present progress reports on the Roanoke Valley government access channel. At some point in the future, it was suggested that both governing bodies jointly recognize the contributions of City and County staff employees who were involved in the establishment of the Western Virginia Water Authority.

A detailed team activity/status report dated February 10, 2004, was presented.

(Twenty-two employee teams are responsible for planning and implementing the transition of City and County utility services to the Western Virginia Water Authority.)

(For full text, see team activity/status report on file in the City Clerk's Office.)

There being no further business, the Mayor declared the meeting of Roanoke City Council adjourned at 1:50 p.m.

A P P R O V E D

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor



CITY OF ROANOKE

OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
 215 Church Avenue, S.W., Room 364
 Roanoke, Virginia 24011-1591
 Telephone: (540) 853-2333
 Fax: (540) 853-1138
 CityWeb: www.roanokegov.com

March 1, 2004

Honorable Ralph K. Smith, Mayor
 Honorable C. Nelson Harris, Vice Mayor
 Honorable William D. Bestpitch, Council Member
 Honorable M. Rupert Cutler, Council Member
 Honorable Alfred T. Dowe, Jr., Council Member
 Honorable Beverly T. Fitzpatrick, Jr., Council Member
 Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Encroachment into Public
 Right-of-Way - Proposed Sign
 and Awning at 22 Campbell
 Avenue, SE -Tax No.
 4010316

Pursuant to the requirements of the Virginia Code, the City of Roanoke is required to hold a public hearing on proposed encroachments into public right-of-way. This is to request that a public hearing be advertised on the above matter for Council's regular meeting to be held on Monday, March 15, 2004. A full report will be included in the March 15, 2004, agenda material for your consideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
 City Manager

DLB/SEF

c: William M. Hackworth, City Attorney
 Mary F. Parker, City Clerk
 Jesse A. Hall, Director of Finance
 Sarah E. Fitton, Engineering Coordinator



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March 1, 2004

Honorable Ralph K. Smith, Mayor
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Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Encroachment into Public
Right-of-Way – Proposed Sign
at 22 Church Avenue, SW -Tax
No. 1012317

Pursuant to the requirements of the Virginia Code, the City of Roanoke is required to hold a public hearing on proposed encroachments into public right-of-way. This is to request that a public hearing be advertised on the above matter for Council's regular meeting to be held on Monday, March 15, 2004. A full report will be included in the March 15, 2004, agenda material for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB/SEF

c: William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
Jesse A. Hall, Director of Finance
Sarah E. Fitton, Engineering Coordinator



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March 1, 2004

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable Bev Fitzpatrick, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Co-promotion Agreement
between the City and JAM, Ltd.

Background:

JAM Theatricals, Ltd. (JAM) has brought many high quality Broadway type events to the Civic Center that were very well received by our audiences. JAM desires to enter into a multi-year Co-promotion Agreement ("Agreement") with the City for the purpose of presenting a subscription series and stand alone presentations for Broadway type events at the Roanoke Civic Center. (See Attached Exhibit A) Co-promotion would enable Jam to bring larger and very popular events to the facility, maximize profitability, and minimize any loss for these events.

Considerations:

Entering into the proposed Agreement with JAM would enable the City to achieve its goals of promoting quality events and increasing its revenue base. It would also enable JAM to bid on events far in advance of each season. JAM would be required to present a minimum of four (4) events on average in each season under the terms of the Agreement. The Agreement would be for three (3) years with a 2 year option to extend. The season would be from September 1 through May 31 of the following year; however, they have two remaining events for this season to be included in the co-promotion Agreement.

Both parties would share any net profits or losses for any of the events on a fifty/fifty basis. Revenues to be shared include: all ticket receipts, net subscription handling fees and service charges, net merchandise sales

from productions and corporate sponsorships directly related to productions booked by the promoter. Merchandising would be shared fifty/fifty by the promoter and the City. The City would retain 100% facility surcharges, concessions, catering, and admissions tax. Net profits and net losses derived from the series would be determined on a show-by-show basis.

Each event presented under the terms of the Agreement would be subject to the Civic Center's standard License Agreement. The promoter would be responsible for obtaining insurance in accordance with the terms of such License Agreement for each of the events. The City's potential liability for losses pursuant to the Agreement is unlimited; however any loss under terms of the Agreement would be subject to appropriations by City Council. In the event that funds are not appropriated, the City would be relieved of any further responsibility to the promoter for such loss. Either party may terminate this Agreement with or without cause upon 60 days written notice to the other party.

Recommended Action:

Authorize the City Manager to execute a co-promotion Agreement between the City and JAM Theatricals, Ltd. in substantially the same form as the attached proposal. All documents necessary to implement the terms of the Agreement shall be approved as to form by the City Attorney. Authorize the City Manager to take further actions and execute further documents as may be necessary to implement and administer such Agreement, including exercising the option to extend the Agreement

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB: wyb

- c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Steven C. Buschor, Director of Parks and Recreation
Glenn A. Asher, Risk Management Officer
George C. Snead, Assistant City Manager for Operations

CM04-00045

CO-PROMOTION AGREEMENT

THIS CO-PROMOTION AGREEMENT ("Agreement") IS MADE THIS _____ day of _____, 2004, by and between the CITY OF ROANOKE, VIRGINIA, hereinafter referred to as "City", and JAM THEATRICALS, LTD, an Illinois Corporation, 207 West Goethe, Chicago, IL, 60610, hereinafter referred to as "Promoter",

WITNESSETH

WHEREAS, City and Promoter desire to enter into a co-promotion agreement for the purpose of presenting a subscription series and stand alone presentations for Broadway-type events at the Roanoke Civic Center; and

WHEREAS, the intent of this co-promotion agreement is to maximize profitability and to minimize any loss for such Broadway- type events.

THEREFORE, in consideration of the terms and covenants stated herein, Promoter and City hereby agree as follows:

1. Co-Promotion:

City and Promoter hereby agree to enter into a co-promotion agreement for the purpose of presenting a Broadway subscription series at the Roanoke Civic Center. The Promoter shall have the right of first refusal for the presentation of any Broadway type events (the "Event" or "Events") held at the Roanoke Civic Center. For purposes of this Agreement, "Broadway type" events" are defined as those events that have a Broadway origin.

2. Term:

The Initial Term of this Agreement shall be for three years, commencing _____, 20____ and extending through _____, 20____. This Agreement may be extended for an additional two (2) year term under the same terms and conditions by mutual agreement of both parties. Both parties shall exercise this right by giving the other party notice of such intent to renew, in writing, no later than ninety days prior to the expiration of the Initial Term. Either party may terminate this Agreement, with or without cause, upon ninety (90) days written notice to the other party.

3. Presentations:

Promoter acknowledges that it will present a minimum of four (4) of the Events on average in each season, but with the understanding that Promoter will make its best effort to program between three and five of the Events each season which will be made available to season subscribers and the general public. For purposes of this Agreement, a season is defined as that time period commencing September 1 of each year and extending through May 31 of the following year. Additional shows may be booked under this Agreement as specials to the subscription series under the same terms or as stand alone presentations, upon mutual consent in writing by both parties. Promoter acknowledges that it will sign a separate License Agreement with City for each of the Events that will be subject to this Agreement and that this Agreement shall be subject to the terms of such License Agreements which include but are not limited to, the City's Insurance requirements of Promoter and the requirement that Promoter indemnify City against any loss. This Agreement shall serve as an addendum to all License Agreements between the City and Promoter during the period stipulated herein, and shall serve as the basis for final settlement between the City and Promoter. In the event of any conflict between the aforementioned License Agreements and this Co-Promotion Agreement, the terms of this Co-Promotion Agreement shall control.

4. Promoter Duties:

Promoter agrees that its duties shall include, but not be limited to the following: booking of attractions, processing of contracts, developing a marketing strategy, budgeting presentations, overseeing and settling the engagements with the touring company.

5. City Duties:

City agrees that its duties shall include, but not be limited to, the following: advance technical arrangements, subscription processing, single and subscription ticket sales, public relations strategy and implementation, building settlements, theatre and box office management and operation, local production arrangements and logistics.

6. Profit/Loss:

Both parties acknowledge and agree that it will share any profits or

losses for any of the Events covered by this Agreement equally on a fifty/fifty basis, except as otherwise stated herein. Venture revenues include: all ticket receipts, net subscription handling fees and service charges, net merchandise sales from productions and corporate sponsorships directly related to productions booked by Promoter. Net profits and net losses derived from the series shall be determined on a show-by-show basis. Net profits shall be defined as the excess of all Venture revenues over all Venture expenses. Net losses shall mean the excess of all Venture expenses over all Venture revenues. Both parties shall be responsible for all event expenses and shall share equally in any event profit or loss. Promoter shall provide the City with documentation to verify profit or loss, including a copy of the contract with the touring company for each Event, and a copy of any contracts such touring company may have in connection with each Event. Promoter acknowledges and agrees that any payments by City for any loss under the terms of this Agreement shall be subject to appropriations by City's City Council. In the event funds are not appropriated by City Council for such loss, City shall be relieved of and have no further responsibility to Promoter for such loss under the terms of this Agreement. The City's Director of Civic Facilities and the Assistant City Manager of Operations for the City hereby acknowledge and agree that they shall use their best efforts in securing such appropriation from the City Council in the event of any loss under this Agreement.

7. Facility Surcharge:

100% retained by the City. Facility Surcharge is currently \$2.00 per ticket, discounted or not.

8. Concessions:

100% to be retained by City.

9. Catering:

100% to be retained by City.

10. Merchandising:

50% Promoter/ 50% City. It is understood that the City will set its own commission percentage and terms for the sale of novelties for each event and will contract directly with the touring company for each Event.

11. Insurance:

In addition to the insurance requirements Promoter agrees to obtain under the terms of the individual License Agreements for each of the Events. Promoter agrees to maintain a Certificate of Insurance of Public Liability for each event, to be expensed at the rate of .35 cents (or prevailing rate) per patron present (drop count). Promoter to provide documentation showing the actual per person insurance costs.

12. Expenses:

The City shall charge the following expenses for each touring show: Local Admission Tax (currently at 9.0%); Usage fee of \$2,500 for one (1) performance, \$7,000 for three (3) performances and \$10,000 for five (5) or more performances. Usage fee will include house services, including but not limited to management of box office and operations, custodial services, equipment owned by City, event manager, ushers, ticket takers, house sound/lights, ticket printing, security, utilities, house follow spots. Stage labor, outside equipment rental and other expenses dictated by the needs of the production shall be billed at actual cost. Usage fee for additional move-in and/or rehearsals shall be \$1,250 and includes the use of the facility only.

13. Box Office:

Promoter shall pay City a box office fee of 3% of net box office receipts, capped at \$1,500 per performance. Credit Card fees shall be billed at prevailing rate for Amex, Visa and MasterCard. Group sales shall be billed at 7% of gross sales.

14. Ticketing:

City shall manage and execute all ticket sales, both season and single tickets. Ticketing system for the 2003-2004 season is Tickets.com. If the City changes ticketing systems at any time during the term of this Agreement, sufficient written notice will be given to Promoter.

15. Comps:

City shall receive twenty-five (25) comp tickets for each of the Events presented by the venture. Seating location to be determined mutually by both parties.

16. Equal Employment Opportunity:

During the performance of this Agreement, the Promoter agrees as follows:

- (a) The Promoter will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the event. The Promoter agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (b) The Promoter, in all solicitations or advertisements for employees placed by or on behalf of the City, will state that such Promoter is an equal opportunity employer.
- (c) The Promoter will include the provisions of the foregoing subsections (a) and (b) in every contract or purchase order of over ten thousand dollars and no cents (\$10,000.00) so that the provisions will be binding upon each contractor or vendor.

17. Drug-free workplace:

During the performance of this Agreement, the Promoter shall: (i) provide a drug-free workplace for the Promoter's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Promoter's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Promoter that the Promoter maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over ten thousand dollars and no cents (\$10,000.00) so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year hereinabove written:

ATTEST:

JAM THEATRICALS, LTD
An Illinois Corporation

By: _____
Title: _____

ATTEST:

City Clerk

CITY OF ROANOKE, VIRGINIA

By: _____
Darlene L. Burcham
City Manager

Seen and Approved

Wilhemina Boyd
Director of Civic Facilities

Calvin H. Johnson
Chair, Roanoke Civic Center Commission

George M. Snead
Assistant City Manager for Operations

WMA

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the proper City officials to enter into a multi-year co-promotion agreement with JAM Theatricals, Ltd. ("JAM"), for the purpose of presenting a subscription series and stand-alone presentations for Broadway type events at the Roanoke Civic Center, upon certain terms and conditions; and dispensing with the second reading of this ordinance by title.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and the City Clerk are authorized to execute and attest respectively, a multi-year co-promotion agreement between the City and JAM Theatricals, Ltd., upon certain terms and conditions, as further set forth in the attachment to the City Manager's letter to this Council dated March 1, 2004. Such co-promotion agreement requires, among its other provisions, that all losses and profits be split equally between the parties, provided, however, that the City's responsibility for such losses is subject to appropriations from Council. The co-promotion agreement is to be in a form substantially similar to the one attached to such letter, in a form approved by the City Attorney.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

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March 1, 2004

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

**Subject: Additional State Funding for
Social Services Programs**

Background:

Social Services, through our Foster Care Program, provides out-of-home placements for children who are in need of protection and can no longer live at home. For those children who are deemed eligible for Title IV-E funding, the Federal and State governments will reimburse localities for the costs of out-of-home placements at 100% of the maintenance, day care and visitation-related transportation. Federal and State funding is also available to assist adoptive families with the cost of maintenance and special needs for children requiring services outside of the usual living expenses.

Considerations:

As part of the mid-year review process, the City of Roanoke received additional funding for Foster Care, Adoption Subsidy, and Special Needs Adoptions for FY 04 in the amount of \$645,000. This increase is based on expenses for the first six months of FY 2004. Social Services currently maintains over 600 children who are in Foster Care or who receive some type of Adoption assistance and the cost of providing services to these children continues to increase. Many of these children have difficulties which require special needs payments.

Recommended Action:

- Increase the General Fund Revenue estimate by \$645,000 in revenue account number 001-110-1234-0675 (Foster Care).
- Appropriate funding in the amount of \$645,000 to the following accounts:

001-630-5314-3115	(ADC Foster Care)	\$400,000
001-630-5314-3130	(Special Needs Adoption)	175,000
001-630-5314-3155	(Subsidized Adoption)	<u>70,000</u>
		\$645,000

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB:rji

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Jane R. Conlin, Director of Human/Social Services
Rolanda B. Russell, Assistant City Manager for Community Development

#CM04-00043

AHS
IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding for the Foster Care Program, amending and reordaining certain sections of the 2003-2004 General Fund Appropriations and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 General Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
ADC Foster Care	001-630-5314-3115	\$ 400,000
Special Needs Adoption	001-630-5314-3130	175,000
Subsidized Adoption	001-630-5314-3155	70,000
Revenue		
Foster Care	001-110-1234-0675	645,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



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March 1, 2004

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable Dr. M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: State Asset Sharing and Federal
Forfeited Property Sharing

Background:

In 1991, the Virginia General Assembly passed State legislation allowing local law enforcement to seize and have forfeited property connected with illegal narcotics distribution. The law also makes it possible for police departments to receive proceeds from these forfeited properties. Application for an equitable share of the property seized by local law enforcement must be made to the Department of Criminal Justice Services, Forfeited Asset Sharing Program and certified by the Chief of Police. Property, including funds shared with State and local agencies, may be used only for law enforcement purposes. Program requirements mandate that these funds be placed in an interest bearing account and the interest earned be used in accordance with program guidelines. Revenue totaling \$42,872 has been collected and is available for appropriation in Grant Fund (Account Number 035-640-3302-3300).

In 1986, Congress authorized the transfer of certain federally forfeited property to state and local law enforcement agencies that participated in the investigation and seizure of the property. Application for an equitable share of property seized by local law enforcement must be made to the U.S. Department of Justice and certified by the City Attorney. This property, including funds shared with state and local agencies, may be used only for the purpose stated in the application, i.e., narcotics investigations related to law enforcement. Participation in federally forfeited property enhances the effectiveness of narcotics investigations by providing

necessary investigations equipment, investigative funds, and it offsets the costs that would otherwise have to be borne by the city's taxpayers. The Police Department receives funds periodically from the federal government's asset sharing program. Grant requirements mandate that these funds be placed in an interest bearing account and the interest earned be used in accordance with program guidelines. Revenue totaling \$66,278 has been collected and is available for appropriation in the Grant Fund account (035-640-3304-3305 and 035-640-3304-3306).

Recommended Action:

Increase the Grant Fund revenue estimate for account 035-640-3302-3300 by \$42,872 and appropriate \$42,872 to the Grant Fund - Overtime Wages account (035-640-3302-1003).

Increase the Grant Fund revenue estimate for account 035-640-3304-3305 by \$65,849 and account 035-640-3304-3306 by \$429 and appropriate \$66,278 to the Grant Fund - Investigations and Rewards account (035-640-3304-2150) and.

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB:ALG:mds

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Rolanda B. Russell, ACM for Community Relations
A. L. Gaskins, Chief of Police

CM04-00040

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for the Federal and State Asset Forfeiture grants, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that certain sections of the 2003-2004 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations			
Overtime Wages	035-640-3302-1003	\$	42,872
Investigation and Rewards	035-640-3304-2150		66,215
Revenues			
Asset Forfeiture-State	035-640-3302-3300		42,872
Federal Forfeiture Program	035-640-3304-3305		65,849
Federal Forfeiture-Interest	035-640-3304-3306		366

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

March 1, 2004

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Recommendation to amend and
reordain Division 1, Generally, and
Division 2, Fair Housing Board, of Article
III, Fair Housing Administration, of Chapter
16, Human Rights, of the Code of the City
of Roanoke (1979), as amended

Background

In late 2002, the City of Roanoke's Fair Housing Board undertook amending the existing fair housing ordinance in order to be consistent with current federal and state fair housing regulations and to revise the responsibilities of the Fair Housing Board. On July 7, 2003, at the City Council work session, a proposed revised ordinance was presented for consideration. A decision was made to focus locally on education and not duplicate services now offered by the state. The revised ordinance was presented to the Fair Housing Board on August 5, 2003. The Fair Housing Board had concerns pertaining to the protected class categories as well as adjudicatory powers and invited City Council to attend its meeting to discuss their concerns. On October 7, 2003, Council members Bestpitch and Cutler met with the Board and heard their concerns. Councilman Bestpitch presented an update from that meeting to Council at the

November 3, 2003 work session. He explained that the ordinance was revised to be in compliance with federal and state laws. It was also revised to remove the ad-judicatory powers of the Board and to place Board emphasis on education and outreach. Councilman Bestpitch stated that the Fair Housing Board felt strongly that the ad-judicatory powers should not be eliminated from the ordinance. Council agreed to leave in these functions for now. The ordinance was reworked to include these powers.

Recommended Action:

City Council adopt an ordinance amending and reordaining Division 1, Generally, and Division 2, Fair Housing Board, of Article III, Fair Housing Administration, of Chapter 16, Human Rights, of the Code of the City of Roanoke (1979), as amended, by amending and adding certain definitions and sections to effect amendments to the City's fair housing ordinance in order to be consistent with current federal and state fair housing regulations, revising the responsibilities of the Fair Housing Board, and dispensing with the second reading by title of this ordinance.

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB:dm

c: William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Mary F. Parker, City Clerk
Rolanda B. Russell, Assistant City Manager
Mike Etienne, Director of Housing and Neighborhood Services
Dianne W. Morris, Housing Development Administrator

CM04-00042

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE amending and reordaining Division 1, Generally, and Division 2, Fair Housing Board, of Article III, Fair Housing Administration, of Chapter 16, Human Rights, of the Code of the City of Roanoke (1979), as amended, by amending and adding certain definitions and sections to effect amendments to the City's fair housing ordinance in order to be consistent with current federal and state fair housing regulations, revising the responsibilities of the Fair Housing Board, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Division 1, Generally, and Division 2, Fair Housing Board, of Article III, Fair Housing Administration, of Chapter 16, Human Rights, of the Code of the City of Roanoke (1979), as amended, are hereby amended and reordained to read and provide as follows:

ARTICLE III. FAIR HOUSING

DIVISION 1. GENERALLY

§16-147. Definitions.

For the purpose of this article, the following words and combinations of words shall have the meanings ascribed thereto in this section:

Board: The fair housing board created in division 2 of this article.

Discriminatory housing practice: Any act that is unlawful under this article.

Elderliness: An individual who has attained his or her fifty-fifth birthday.

Familial Status: One or more individuals who have not attained the age of eighteen years being domiciled with (i) a parent or other person having legal custody of such individual or individuals; or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained

the age of eighteen years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

Family: One or more individuals, whether male or female.

Handicap: With respect to a person, (i) a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) a record of having such an impairment, or (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or addiction to a controlled substance as defined by Virginia or federal law. Neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

Housing: Any building, structure, facility or portion thereof, located in the city, that is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one (1) or more individuals, groups or families; and any vacant land located in the city offered for sale or lease for the purpose of constructing or locating such building, structure or facility; including any interest in housing, as so defined, fee simple, leasehold or other.

Housing for older persons: Housing (i) provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or (ii) intended for and solely occupied by persons sixty-two years of age or older; or (iii) for, and solely occupied by at least one person fifty-five years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under clause (iii) of this subsection:

- 1. At least eighty percent of the occupied units are occupied by at least one person fifty-five years of age or older per unit; and*
- 2. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.*

Housing shall not fail to meet the requirements for housing for older persons by reason of:

- 1. Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of clauses (ii) and (iii), provided that new occupants of such housing meet the age requirements of those clauses; or*
- 2. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of clauses (ii) and (iii)*

Lending institution: Any bank, insurance company, savings and loan association or any other entity or person regularly engaged in the business of lending money or guaranteeing loans.

Marital status: One (1) or more individuals, male or female, whether married or single.

Person: One (1) or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Person in the business of building, developing, selling, renting or leasing housing: Any person who, within the preceding twelve (12) months, has participated, as principal or real estate broker, real estate salesman or rental agent, in three (3) or more transactions involving the sale, lease or rental of any housing.

Personal residence: A building or structure containing living quarters occupied or intended to be occupied by no more than four (4) individuals, four (4) groups or four (4) families living independently of each other, and used by the owner thereof as a bona fide residence for himself and any member of his family forming his household.

Real estate broker: A person doing business in the city who is the holder of a real estate broker's license issued pursuant to article 1 ~~3~~ or ~~article 5~~ of chapter 21 ~~18~~ of title 54.1 of the Code of Virginia.

Real estate salesperson: A person doing business in the city who is the holder of a real estate ~~salesman's~~ *salesperson's* license issued pursuant to article 1 ~~3~~ or ~~article 5~~ of chapter 21 ~~18~~ of title 54.1 of the Code of Virginia.

To rent: To lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

§16-148. Discriminatory practices generally.

It shall be contrary to the public policy and the intent of this article:

A. For any person, ~~solely~~ on account of the race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status of any adult person:

- (1) To refuse to sell, lease, sublease, rent, assign or transfer to such adult person any housing.

- (2) To refuse to transact business with such adult person for the sale, lease, sublease, rental, assignment or other transfer of any housing.
- (3) To knowingly represent to such adult person that housing is not available for inspection, sale, lease, sublease, rental, assignment or other transfer, when in fact such housing is so available. ~~and a bona fide offer shall have been made therefor by such adult person.~~
- (4) To knowingly represent to such adult person that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which or on which it is in fact available to the generality of persons.
- (5) To discriminate in respect to the provision of services, facilities or other amenities connected with such adult person's ownership, lease, sublease, rental, possession or occupancy of housing.
- (6) To interfere with, interrupt, terminate, or *otherwise make unavailable* such adult person's ownership, lease, sublease, rental, possession or occupancy of housing or other enjoyment of any interest therein.
- (7) To deny to such adult person access to, participation in or other benefit of, any multiple-listing service or other service or facility related to the business of selling or renting housing.

B. For any person, ~~solely~~ on account of the race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status of any other person:

- (1) To include in the terms or conditions of any sale, lease, sublease, rental, assignment or other transfer of housing any condition or provision that purports to forbid or discourages or attempts to discourage the ownership, leasing, possession, occupancy or use of such housing by persons.
- (2) To print or publish or cause to be printed or published any notice, statement or advertisement, to announce a policy, to use any form of application or to make a record or inquiry in connection with the sale, lease, sublease, rental, assignment or other transfer of housing that indicates any preference, limitation or other discrimination based on race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status *of any adult person*; or an intention to engage in any such preference, limitation or other discrimination.

- (3) To coerce, or attempt to coerce, any person to do any act declared to be a discriminatory housing practice, or to engage in economic reprisal or otherwise retaliate, or to coerce or attempt to coerce another person to engage in economic reprisal or otherwise retaliate against any person who has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this article.
- (4)(e) For any lending institution, ~~solely~~ on account of the race, color, religion, national origin, sex, age, *familial status, elderliness, handicap or* marital status of any person, to discriminate in lending money, guaranteeing loans, accepting mortgages or otherwise making available money for the purchase, acquisition, construction, alteration, repair or maintenance of any housing or to discriminate in the fixing of the rates, terms or conditions of any such financing or in the extension of service in connection therewith.
- (5)(d) For any person, knowingly and for monetary gain, to induce or attempt to induce another person to transfer an interest in real property, or to discourage another person from purchasing real property, by representations regarding the existing or potential proximity of real property owned, used or occupied by persons of any particular race, color, religion, national origin, sex, age, *familial status, elderliness, handicap, or* marital status.
- (6)(e) For any person to solicit or attempt to solicit the listing of dwellings for sale or lease, by door to door solicitation, in person or by telephone, or by mass distribution of circulars, for the purpose of changing the racial composition of the neighborhood.
- (7) *To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a handicap of (i) that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made available, or (iii) any person associated with that buyer or renter. For the purposes of this section, discrimination includes: (i) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal*

opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

- (a) The public use and common use areas of the dwellings are readily accessible to and usable by handicapped persons;*
- (b) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and*
- (c) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.*

C. For any city official whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be deposited any public funds in any lending institution which is found to be committing discriminatory practices, where such findings were upheld by any court of competent jurisdiction. Upon the court's judicial enforcement of any order to restrain a practice of such lending institution or for such institution to cease or desist in a discriminatory practice, the appropriate fiscal officer shall take immediate steps to have such funds withdrawn and redeposited in another lending institution. If for reasons of sound economic management, this action will result in a financial loss to the city, the action may be deferred for a period not longer than one year. If the lending institution in question has corrected its discriminatory practices, any prohibition set forth in this section shall not apply.

D. Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people shall be deemed to satisfy the requirements of 8(iii)(c) of this section.

E. Nothing in this article shall be construed to invalidate or limit any Virginia law or regulation which requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this article.

§16-149. Discriminatory practices by real estate brokers and others in housing business.

No real estate broker, real estate salesman or other person in the business of building, developing, selling, renting, or leasing housing shall:

- (1) Solicit the sale, lease, sublease, rental, assignment or other transfer of housing or discourage the purchase, lease, sublease, rental, assignment or other transfer of housing, by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of any particular race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status; or
- (2) Knowingly offer for sale or lease, by sign or any other device representing that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer, when in fact it is not so available, and such fact is known by such broker, salesman or other person.

§16-150. Notice to be posted by real estate brokers and others in housing business.

Every real estate broker and every other person in the business of developing, selling, renting or leasing housing, including every person who operates a multi-unit residential building containing more than ~~two~~ (2) 4 units, except a personal residence, shall post, in a conspicuous location in that portion of his housing business normally used by him for negotiating the sale, rental or leasing of housing, a notice that contains the following language, printed in black on a light colored background, in not less than fourteen (14) point type:

"It is contrary to public policy and to the intent of the Fair Housing Ordinance of the City of Roanoke, Virginia, for any person to:

1. Deny housing accommodations to any person because of race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status; or
2. Discriminate against any person because of race, color, religion, national origin, sex, age, *familial status, elderliness, handicap*, or marital status with respect to the terms, conditions or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith.

3. *If you believe you have not been treated fairly, call the City of Roanoke Department of Housing and Neighborhood Services. ”*

§16-151. Civil action by persons affected by discriminatory practices.

Any person adversely affected by use of a discriminatory practice prohibited under this article may *either*:

- (1) Institute an action for injunctive relief and damages against the person responsible for such discriminatory practice in *a court of competent jurisdiction* ~~court of record having equity jurisdiction~~ in the city. If the court finds that the defendant was responsible for such a practice and that the complainant was adversely affected thereby, it shall enjoin the defendant from use of such practice and, in its discretion, award the complainant ~~actual~~ *all damages available under applicable law with court costs and reasonable attorney's fees; or*
- (2) *File a complaint with the secretary to the Fair Housing Board, as provided in section 16-176 of this article.*

§16-152. Exceptions from article.

Nothing contained in this article shall:

- (1) *Apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three (3) single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted shall apply only with respect to one such sale within any twenty-four month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any person in the business of selling or renting housing, or of any employee, independent contractor, or agent of any broker, agent, salesperson or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this chapter. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.*

- (1)(2) Bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination with regard to occupancy, leasing, sale or purchase of housing, or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained, *unless membership in such religion is restricted on account of race, color, national origin, sex, age, familial status, elderliness, handicap, or marital status.*
- ~~(2) Apply to the rental or leasing of a room or rooms in a personal residence~~
- (3) Prohibit a private club, not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preferences to its members.
- (4) Be construed to bar any person from refusing to sell *or rent or advertise* any dwelling ~~which is planned exclusively for, and occupied exclusively by, individuals of one (1) sex, to any individual of the opposite sex on the basis of sex. Nor shall anything in this article be construed to bar any person from selling, renting or advertising any dwelling which is planned exclusively for, and occupied exclusively by, to unmarried individuals cohabiting contrary to law to unmarried individuals only.~~
- ~~(5) Be construed to bar any person from refusing to sell or rent any dwelling to unmarried individuals cohabiting contrary to law.~~
- ~~(6)~~(5) Be construed to deny to any person any right or privilege guaranteed by the Constitution of the United States or by the Constitution of Virginia.
- ~~(7) Be construed to bar any person from refusing, on the basis of age, sex or marital status, to sell, rent or advertise any multi-unit dwelling which is planned for and exclusively occupied by persons of specific age groups, or by indigent persons, or by persons medically or mentally incapacitated.~~
- ~~(8)~~(6) Be construed to require a sale or lease to a minor or to prohibit the refusal to sell or lease to a minor because of his age.
- (7) *The familial status protection shall not apply to housing for older persons.*

§16-153. Employment of personnel to enforce article.

The city council or *city manager* may authorize employment of such personnel, in addition to the *secretary administrator* provided for in division 2, as are deemed warranted to secure effective enforcement of this article.

§16-154. Article does not affect other rights and remedies.

Nothing contained in this article shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be lawfully entitled, or from filing any complaint with any public agency.

DIVISION 2. FAIR HOUSING BOARD

§16-167. Created; composition; appointment and terms of members.

There is hereby created in the city a fair housing board, which shall consist of seven (7) members, all of whom shall reside in the city. The members shall be appointed by the city council. Of the members first appointed, two (2) shall be appointed for terms of three (3) years, two (2) shall be appointed for terms of two (2) years and three (3) shall be appointed for a term of one (1) year, all such terms commencing as of the first day of April 1973. Thereafter, members shall be appointed for terms of three (3) years each. Any vacancy shall be filled by the council for the unexpired portion of a term. *In filling vacancies, Council shall consider appointing members with experience in mortgage lending, residential property management, and construction contracting, however such experience shall not be required for board membership.*

§16-168. Members not compensated.

Members of the board shall serve without compensation.

§16-169. Removal of members.

Any member of the board may be removed by the council upon good cause appearing to the council.

§16-170. Vacancy caused by consecutive absences.

Absence from five (5) consecutive meetings *without good cause* by any member of the board shall vacate such member's position on the board.

§16-171. Election of chair and vice-chairman; organizational procedures; meetings; required vote for final decision.

At the first meeting of the board following annual appointments thereto, the board shall elect a ~~chairman~~ and a ~~vice-chairman~~ from its membership and establish such procedures of organization and conduct as it may deem necessary. The board shall meet not less than

quarter-annually and upon call of the chairman or of any three (3) members of the board. All meetings of the board shall be with due written notice to each member. Any final decision of the board shall be with the concurring vote of four (4) of the members.

§16-172. Reports.

The board shall render, *as of July of each fiscal year, January of each year, and thereafter quarterly during each year*, to the city council, a full written report of its activities under the provisions of this article, and any recommendations of the board concerning measures to be taken to further the purposes of this article.

§16-173. General powers with respect to investigations, hearings, etc.; responsibilities of the board.

In making the investigations, pursuing conciliation and persuasion and conducting hearings, pursuant to this division, the board shall have authority to hear testimony under oath, to make findings of fact and issue decisions and warnings in accordance with the provisions of this article, and to make and adopt and publish such rules of procedure as may be necessary or proper for carrying out its functions under the provisions of this article. *The board shall also have the following additional responsibilities:*

(a) The board shall provide information to the public concerning Federal, State and City fair housing laws.

(b) The board shall advise City Council and the secretary to the board about the nature, causes, and possible solutions to fair housing issues.

(c) The board shall make tenants and landlords aware of the resources of the board, and the authority of its secretary to conciliate fair housing complaints.

§16-174. Administrator generally. Secretary to the board.

There shall be ~~an administrator of~~ *secretary to* the board, not a member of the board, who shall be appointed by the city manager ~~and who~~ *He* shall serve as secretary of the board and shall be responsible for keeping the records of the board's proceedings, *advising and notifying members of board meetings and events, serving as a resource, providing and organizing training on fair housing issues, and helping plan activities of the board.* ~~The position of the administrator shall be included in the pay and classification plan of the city and subject to the provisions of the city's personnel ordinances and regulations.~~ The ~~administrator~~ *secretary to the board* may be a person otherwise employed by the city and the duties of the administration of this article may be assigned in addition to other duties.

§16-175. How notices required by division to be mailed.

All notices required under the provisions of this division to be given by certified mail shall be addressed to the person to whom such notice is intended at the last known address of such person or to the attorney of such person, should such attorney have formally appeared before the board, *and to the secretary to the board or additional personnel employed to secure enforcement of this article* on behalf of such person.

§16-176. General procedure on complaints for discriminatory practices; conciliation and consent agreements.

- (a) A complaint alleging the commission of a discriminatory housing practice, in writing and sworn to or affirmed, may be filed with the ~~administrator of~~ *secretary* to the board by the complainant. Such a complaint shall state the name and address of the complainant and of the person or persons against whom complaint is made and shall also state the alleged facts surrounding the alleged commission of a discriminatory housing practice, the date the discriminatory housing practice was allegedly committed and such other information as the board, by regulation, may require. Upon receipt of such complaint, the ~~administrator of~~ *secretary* to the board shall furnish a copy of the same to the person who allegedly committed, or is about to commit, the alleged discriminatory housing practice and to the *members of the fair housing board* ~~chairman of the board~~. For the protection of the privacy of the individuals involved, in personal matters, every complaint shall be held in confidence ~~by the board, its administrator and employees,~~ unless and until the complainant and the person complained against consent to its being made public. ~~or until a hearing, as described in sections 16-177 and 16-178, is begun.~~ No complaint shall be filed more than ~~thirty (30) days~~ *one (1) year* after the date of the alleged discriminatory housing practice.
- (b) Upon the filing of a complaint as set forth in subsection (a) of this section and notice thereof to the person against whom such complaint is made, the ~~administrator of~~ *secretary* to the board shall (i) *forward such complaint to the Virginia Fair Housing Office for processing and investigation;* and/or (ii) make such investigation as ~~the administrator~~ *he or she* deems appropriate to ascertain the facts. If the ~~secretary to~~ *administrator* of the board ~~shall determine~~ *makes the determination to investigate the complaint, and the secretary to the board determines* that there are reasonable grounds to believe a violation has occurred and is susceptible of conciliation, such determination to be made within ~~thirty (30) days~~ *one hundred (100) days* of the filing of the complaint, ~~he~~ *the secretary to the board may* ~~shall~~ attempt to conciliate the matter by methods of conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such initial conferences shall be made public ~~by the board or its members or any of its staff,~~ unless all parties thereto agree in writing.

- (c) The terms of conciliation agreed to by the parties pursuant to this section may be reduced to writing and incorporated into a consent agreement signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that this article has been violated. Consent agreements shall be signed on behalf of the board by the chairman or the vice-chairman.
- (d) It shall be a prima facie violation of this article to violate or fail to adhere to any provisions contained in a consent agreement. A failure by the board to enforce a violation of any provision of a consent agreement shall not constitute a waiver of any right of any party to such agreement.
- (e) *Any conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the board. A copy of the agreement shall be filed with the board and retained in fair housing records. Before any conciliatory action is taken by the secretary to the board it should be brought before the board.*

§16-177. Procedure when administrator secretary to the board finds lack of grounds for complaint.

If the ~~administrator~~ *secretary* to the board determines that a complaint filed under section 16-176 lacks reasonable grounds upon which to base a violation of this article, ~~he~~ *the secretary to the board, with board concurrence*, shall give written notice of such determination to the complainant, the person complained against and the board. The notice shall also state that the complaint will stand dismissed unless, within ~~twenty~~ (20) *thirty* (30) days after mailing of such notice, the complainant files with the board in writing a request for a hearing by the board. Upon the filing of request for such hearing, the ~~administrator~~ *secretary* to the board shall immediately mail a copy of such request to the person complained against, together with notice of the time and place fixed by the board for such hearing. Thereafter, and at such time, the board shall afford the parties an opportunity to appear before the board in person or by counsel. Upon such hearing, the board may, in its discretion, dismiss such complaint or determine that there are reasonable grounds to believe the alleged violation of this article has occurred.

§16-178. Procedure when grounds for complaint found to exist but conciliation fails.

- (a) If the ~~secretary to administrator~~ of the board or the board has determined that there are reasonable grounds to believe the alleged violation of this article, which is the subject of a complaint filed under section 16-176, has occurred and the ~~secretary administrator~~ fails to conciliate a complaint after the parties have, in good faith, attempted such conciliation; or fails to effect an informal conciliation agreement or a formal consent agreement; or determines that the complaint is not susceptible of conciliation, the ~~administrator~~ *secretary* to the board shall notify the chairman of the board immediately and in all cases shall give such notice within thirty (30) days after the filing of the complaint;

provided, that such period may be extended not more than thirty (30) additional days by the board for good cause appearing to the board. Upon receiving such notice, the chairman of the board shall promptly thereafter schedule a public hearing to determine whether a violation of this article has been committed. The board shall give written notice by certified mail to the respondent and the complainant containing a statement of such charges and of the time and place of hearing. The respondent or his counsel may file such statements with the board prior to the hearing date as he deems necessary in support of his position.

- (b) The hearing provided for in this section shall be held within *thirty (30)* ~~twenty (20)~~ days after mailing of the statement of charges and notice of hearing. Such hearing shall be open to the public, unless for the protection of the privacy of the individuals involved, in personal matters, the respondent requests, in writing, a private hearing, in which case the hearing shall be private. The interested parties may, at their option, appear before the board in person or by duly authorized representatives and may be represented by an attorney. The parties may testify and present evidence, and the right to cross-examine witnesses shall be preserved, and for these purposes, the board may invite such additional persons to appear as the ends of justice may require. All testimony and evidence shall be given under oath or by affirmation. The board shall not be bound by strict rules of evidence prevailing in courts of law, but shall adhere to rules of equity.
- (c) The board shall keep a full record of each hearing held under this section, which record shall, unless such hearing is private, be public and open to inspection by any person, and upon request by any principal party to the proceedings, the board shall furnish such party a copy of the hearing record, at the cost of the party so requesting.
- (d) If, at the conclusion of a hearing held under this section, the board shall determine that the respondent has committed or is committing the discriminatory housing practice charged, the board shall state its findings and conclusions and shall issue and cause to be mailed, by certified mail, to the respondent a copy of such decision, which shall contain warning to cease and desist from such discriminatory practice and to take such affirmative action as may be indicated to effect the purposes of this article, including, if the board so determines, reporting on the manner of his compliance.
- (e) If upon all the evidence at a hearing held under this section, the board shall find that the respondent has not engaged in the discriminatory housing practice charged, the board shall state its findings and conclusions and shall dismiss the complaint. Notice of such action shall be given to the complainant and to the respondent by certified mail.

§16-179. Time limitation for mailing decision on complaint.

Any complaint filed under the provisions of this division shall stand dismissed, unless the board has, within ninety (90) days of the date of the filing of the complaint, mailed to the respondent a decision pursuant to the provisions of section 16-178(d).

§16-180. Investigation of discriminatory practices without complaint.

In a case in which the board proceeds on its own initiative to investigate a discriminatory housing practice, without receiving a formal complaint, the procedure followed shall be that prescribed in section 16-181. No investigation shall be undertaken by the board on its own initiative, if more than sixty (60) days have elapsed since the occurrence of the discriminatory housing practice that the board has reason to believe occurred. In a case in which there is no complainant, the ~~administrator~~ *secretary* to the board shall be responsible for developing the evidentiary record before the board.

§16-181. Authority of board to seek interlocutory relief.

If, at any time after a complaint has been filed under this division or after the institution of an investigation on the board's own initiative, the board believes that appropriate civil action to abate or prevent any discriminatory housing practice, to preserve the status quo or to prevent irreparable harm appears advisable, the board may, after consultation with the commonwealth's attorney or his authorized designee, certify the matter to the commonwealth's attorney to bring any action necessary to abate or prevent such practice, preserve such status quo or to prevent such irreparable harm, including but not limited to temporary restraining orders and preliminary injunctions.

§16-182. Enforcement of board's decision by court.

If the respondent refuses or fails to comply with any decision of the board made pursuant to this division, the board shall refer the matter to the commonwealth's attorney, who shall bring an action against such respondent in a court of competent jurisdiction to enforce compliance with such decision. Any person who shall be found by the board to have violated the intent of this article or the public policy stated herein relating to discriminatory housing practices shall be subject to injunctive or other appropriate action or proceeding, and any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or such form of relief as the court deems appropriate, and may award as provided in section 16-151.

§16-183. Appeals from decisions of board.

- (a) Any party aggrieved by a written decision of the board made after a hearing held pursuant to this division may present to a court of record of the city a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality and making party defendant thereto the opposing party in proceedings before the board. Such petition

shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board.

- (b) Upon presentation of such petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and to the opposing party and on due cause shown, grant a restraining order.
- (c) The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified by the ~~chairman~~ or ~~administrator~~ *or secretary* to the board.
- (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceeding upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, modify the decision brought up for review.
- (e) Costs in proceedings under this section shall not be allowed against the board, unless it shall appear to the court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

2. Pursuant to Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



WILLIAM M. HACKWORTH
CITY ATTORNEY

CITY OF ROANOKE
OFFICE OF CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE: 540-853-2431
FAX: 540-853-1221
EMAIL: cityatty@ci.roanoke.va.us

March 1, 2004

ELIZABETH K. DILLON
STEVEN J. TALEVI
GARY E. TEGENKAMP
DAVID L. COLLINS
HEATHER P. FERGUSON
ASSISTANT CITY ATTORNEYS

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Re: Steam Locomotives 611 and 1218

Dear Mayor Smith and Members of Council:

The City has been requested to confirm that the Virginia Museum of Transportation, Inc., has the right to license to others for commercial use the likenesses of the 611 and 1218 steam locomotives, which are owned by the City but maintained by the Museum. See the attached letter of January 28, 2004, from Eugene M. Elliott, Jr., to Councilman Fitzpatrick.

Although it is our understanding that the 611 was donated to the City many years ago, we could not locate any records of this. The 1218 was donated to the City in 2001 by the Shenandoah-Virginia Corporation, subject to the provision the City would not sell, transfer or cancel its rights to the 1218 for a period of ten years after the date of the donation. I have prepared the attached resolution which would accomplish what the Museum has requested. Mr. Elliott has reviewed the resolution, and found it to be acceptable. The City Manager has indicated that she has no problem with this proposed action.

Please let me know if you have any questions about this matter.

With kindest personal regards, I am

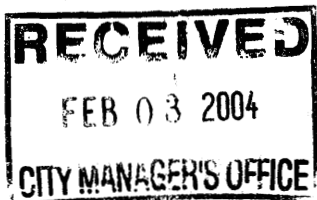
Sincerely yours,

William M. Hackworth
City Attorney

WMH:f

Attachment

cc: Eugene M. Elliott, Jr., Esquire
Darlene L. Burcham, City Manager



EUGENE M. ELLIOTT, JR.
ATTORNEY AT LAW
SUITE 910-FIRST UNION BUILDING
213 SOUTH JEFFERSON STREET
ROANOKE, VIRGINIA 24011-1787

TELEPHONE (540) 981-0164
FACSIMILE (540) 982-5660

January 28, 2004

The Honorable Beverly T. Fitzpatrick, Jr.
10 27th Street, SE
Roanoke, VA 24014-3347

Re: Virginia Museum of Transportation

Dear Bev:

Recently I spoke to you about the copyright usage of the Locomotives 611 and 1218. As you know, the Museum is the repository for both of these locomotives which are icons in the world of steam railroading enthusiasts. The 611 resides in the Museum by virtue of the original lease of the City of Roanoke's portion of the collection. The 1218 resides at the Museum as a condition of its recent donation to the City of Roanoke by the Norfolk Southern Corporation.

Implied, but not specifically stated, is that with the delivery of these two locomotives to the Virginia Museum of Transportation, Inc. for their care and preservation, is also delivered the right to license the commercial use of the photographic, artistic, digital, or other video representations of the locomotives.

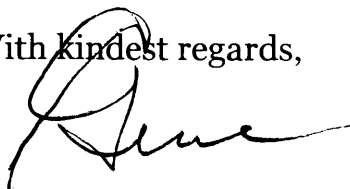
We recently have had a request for such a license to reproduce the images of both locomotives, and desire to confirm that we have the legal right to do so. As licensing of these images will produce income to the Museum, a non-profit §501-(c) (3) tax exempt organization, it makes it sense for us to generate as much of our own funding as possible.

Accordingly, I would appreciate your assistance in obtaining the requested confirmation of our right to license these images as soon as possible. The artist is involved with other local museums to produce a collage of tourist attractions. Obviously, he would like to be able to proceed with his concept and is awaiting our approval, since the locomotives are prominent in the collage.

The Honorable Beverly T. Fitzpatrick, Jr.
January 28, 2004
Page 2

Again, thank you for your assistance and your many years of interest and support for the Virginia Museum of Transportation, Inc.

With kindest regards,

A handwritten signature in black ink, appearing to read "Elliott", with a large, stylized initial "E" that loops around the first part of the name.

Eugene M. Elliott, Jr.

EMEjr:mbw

Fitzpatrickltr.VMT.1282004.wpd

WMT

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION confirming that the Virginia Museum of Transportation, Inc., has the right to license to others for commercial use the likenesses of the 611 and 1218 Class A steam locomotives.

WHEREAS, the Virginia Museum of Transportation, Inc., (the "Museum") has requested that the City confirm that the Museum has the right to license to others for commercial use the likenesses of the 611 and 1218 locomotives;

WHEREAS, the 611 locomotive was apparently acquired by the City by donation;

WHEREAS, the 1218 locomotive was donated to the City in 2001 by the Shenandoah-Virginia Corporation, subject to the provision that the City not sell, transfer or convey its rights to the 1218 for a period of ten years after the date of such donation;

WHEREAS, the Museum houses the 611 and the 1218 and maintains and insures them for the City.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke, to the extent that it has the power to do so, hereby confirms the right of the Virginia Museum of Transportation, Inc., a non-profit §501(c)(3) agency, to license to others for commercial use the photographic, artistic, digital, or video representations or likenesses of the 611 and 1218 Class A steam locomotives.

ATTEST:

City Clerk.



WILLIAM M. HACKWORTH
CITY ATTORNEY

CITY OF ROANOKE
OFFICE OF CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE: 540-853-2431
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GARY E. TEGENKAMP
DAVID L. COLLINS
HEATHER P. FERGUSON
ASSISTANT CITY ATTORNEYS

March 1, 2004

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Dear Mayor Smith and Members of City Council:

On June 16, 2003, Council approved the request of Carilion Health System for the conveyance of certain City-owned property, containing .017 acres, located on Hamilton Terrace, S.E., along with temporary construction easements and a revocable license to allow the encroachment into the right-of-way of Hamilton Terrace, S.E., in connection with the construction of a pedestrian bridge over the Roanoke River.

Carilion Health System contacted this office and requested that conveyance of the .017 acres on Hamilton Terrace, S.E. and the encroachment be done in the name of Carilion Medical Center. In order to comply with the request, two ordinances are attached to this report which change the name from Carilion Health Systems to Carilion Medical Center.

If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "William M. Hackworth".

William M. Hackworth
City Attorney

WMH:s
Attachments

cc: Darlene L. Burcham, City Manager
Mary F. Parker, City Clerk

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager to execute the necessary documents providing for conveyance of a .017 acre portion of City-owned property known as the utility lot identified as New Parcel C of Official Tax No. 4050101, located along Hamilton Terrace, S.E., and temporary construction easements to Carilion Medical Center (“CMC”), upon certain terms and conditions; repealing Ordinance No. 36406-061603, adopted on June 16, 2003, in order to change the name of the grantee; and dispensing with the second reading by title of this ordinance.

WHEREAS, a public hearing was held on June 16, 2003, pursuant to §15.2-1800(B) and 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on the proposed conveyance.

WHEREAS, by Ordinance No. 36406-061603, adopted June 16, 2003, City Council authorized the conveyance of certain interests in City-owned property to Carilion Health Systems (“CHS”), upon certain terms and conditions; Carilion has requested that the name of the grantee be changed to Carilion Medical Center (“CMC”).

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Ordinance No. 36406-061603, adopted on June 16, 2003, is hereby repealed, and the City Manager and the City Clerk are hereby authorized, on behalf of the City, to execute and attest, respectively, the necessary documents providing for the conveyance of a

.017 acre portion of City-owned property known as the utility lot identified as New Parcel C of Official Tax No. 4050101, located along Hamilton Terrace, S.E., and temporary construction easements to CMC, upon certain terms and conditions as set forth in the City Manager's letter to this Council dated June 16, 2003.

2. All documents necessary for this conveyance shall be in form approved by the City Attorney.

3. The City shall retain any existing easements, together with the right of ingress and egress over the same, for the installation and maintenance of any and all existing utilities that may be located within the demised area.

4. Pursuant to the provisions of §12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE granting a revocable license to permit the encroachment of a retaining wall, sidewalk and canopy, with all necessary appurtenances thereto, encroaching approximately .063 acres into the public right-of-way of Hamilton Terrace, S.E., upon certain terms and conditions; and repealing Ordinance No. 36407-061603, in order to provide for a change in the name of the Licensee; and dispensing with the second reading by title of this ordinance.

WHEREAS, by the adoption of Ordinance No. 36407-061603, on June 16, 2003, City Council authorized the encroachment of a retaining wall, sidewalk and canopy, with all appurtenances thereto into the public right-of-way of Hamilton Terrace, S.E., by Carilion Health Systems; Carilion has requested that the name of the licensee be changed to Carilion Medical Center.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Permission is hereby granted Carilion Medical Center ("Licensee") to permit the construction and encroachment of a retaining wall, sidewalk, canopy and supporting structure encroaching approximately .063 acres into the public right-of-way of Hamilton Terrace, S.E., as more fully described in a letter of the City Manager to City Council dated June 16, 2003.

2. Such license, granted pursuant to §15.2-2010, Code of Virginia (1950), as amended, shall be revocable at the pleasure of the Council of the City of Roanoke and subject to all the limitations contained in the aforesaid §15.2-2010.

3. It shall be agreed by the Licensee that, in maintaining such encroachment, the Licensee and its grantees, assignees, or successors in interest shall agree to indemnify and save harmless the City of Roanoke, its officials, officers and employees from all claims for injuries or damages to persons or property that may arise by reason of the above-described encroachment in the public right-of-way.

4. The licensee, its grantors, assigns or successor in interest shall for the duration of this license maintain on file with the City Clerk's Office evidence of insurance coverage in amounts not less than \$1,000,000.00. This insurance requirement may be met by either homeowner's insurance or commercial general liability insurance. The certificate of insurance must list the City of Roanoke, its officers, employees, agents and volunteers as additional insureds, and an endorsement by the insurance company naming the City as an additional insured must be received within thirty (30) days of passage of this ordinance. The certificate shall state that such insurance may not be canceled or materially altered without thirty (30) days written advance notice of such cancellation or alteration being provided to the Risk Management Officer for the City of Roanoke.

5. The City Clerk shall transmit an attested copy of this ordinance to the Carilion Medical Center, Roanoke, Virginia.

6. This ordinance shall be in full force and effect at such time as a copy, duly signed, sealed, and acknowledged by Carilion Medical Center, has been admitted to record,

at the cost of the Licensee, in the Clerk's Office of the Circuit Court for the City of Roanoke and shall remain in effect only so long as a valid, current certificate evidencing the insurance required in Paragraph 4 above is on file in the Office of the City Clerk.

7. Ordinance No. 36407-061603, adopted June 16, 2003, is hereby repealed.

8. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

ACCEPTED AND EXECUTED by the undersigned this ____ day of _____, 2004.

CARILION MEDICAL CENTER

Its _____

STATE OF _____ §
CITY/COUNTY OF _____ § To-Wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid this ____ day of _____, 2004 by _____, the _____, of Carilion Medical Center.

My Commission expires: _____

Notary Public



MARY F. PARKER, CMC
City Clerk

CITY OF ROANOKE OFFICE OF CITY CLERK

215 Church Avenue, S.W., Room 456
Roanoke, Virginia 24011-1536
Telephone: (540) 853-2541
Fax: (540) 853-1145
E-mail: clerk@ci.roanoke.va.us

STEPHANIE M. MOON
Deputy City Clerk

SHEILA N. HARTMAN
Assistant City Clerk

March 1, 2004

The Honorable Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

On June 30, 2004, the three-year terms of office of Alvin L. Nash and Ruth C. Willson as Trustees of the Roanoke City School Board will expire.

Pursuant to Chapter 9, Education, of the Code of the City of Roanoke (1979), as amended, establishing a procedure for the election of School Trustees, Council must hold certain meetings and take certain actions during the months of March, April and May to conform with the selection process. Therefore, the concurrence of Council in establishing the following dates is requested:

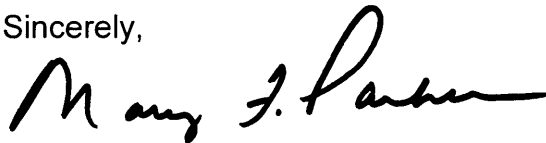
- (1) On Monday, March 15, 2004, at 2:00 p.m., or as soon thereafter as the matter may be heard, Council as a Committee of the Whole, will review and consider all candidates for the position of School Trustee. At such meeting, Council shall review all applications filed for the position and Council may elect to interview candidates for such positions.
- (2) On Monday, April 5, 2004, at 2:00 p.m., or as soon thereafter as the matter may be heard, Council will, by public vote, select from the field of candidates, those candidates to be accorded the formal interview and all other candidates will be eliminated from the School Trustee selection process. The number of candidates to be granted the interview shall not exceed three times the number of positions available on the Roanoke City School Board, should there be so many candidates.

The Honorable Mayor and Members
of the Roanoke City Council
March 1, 2004
Page 2

- (3) On Monday, April 19, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, Council will hold a public hearing to receive the views of citizens.
- (4) On Thursday, April 22, 2004, at 4:30 p.m., Council will hold a meeting for the purpose of conducting a public interview of candidates for the position of School Trustee.
- (5) On Monday, May 3, 2004, at 2:00 p.m., or as soon thereafter as the matter may be heard, Council will hold an election to fill the two vacancies, for terms commencing July 1, 2004, and ending June 30, 2007.

The concurrence of Council in the above-referenced dates will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary F. Parker". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mary F. Parker, CMC
City Clerk

MFP:sm



CITY OF ROANOKE

DEPARTMENT OF FINANCE

215 Church Avenue, S.W., Room 461

P.O. Box 1220

Roanoke, Virginia 24006-1220

Telephone: (540) 853-2821

Fax: (540) 853-6142

JESSE A. HALL

Director of Finance

email: jesse_hall@ci.roanoke.va.us

ANN H. SHAWVER

Deputy Director

email: ann_shawver@ci.roanoke.va.us

March 1, 2004

The Honorable Ralph K. Smith, Mayor
 The Honorable C. Nelson Harris, Vice Mayor
 The Honorable William D. Bestpitch, Council Member
 The Honorable M. Rupert Cutler, Council Member
 The Honorable Alfred T. Dowe, Jr., Council Member
 The Honorable Beverly T. Fitzpatrick, Jr., Council Member
 The Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

SUBJECT: January Financial Report

This financial report covers the first seven months of the 2003-2004 fiscal year. The following narrative discusses revenues and expenditures.

REVENUES

Adjusted for the change in reporting of recovered costs, General Fund revenues increased 2.7% compared to FY03. Effective with the 2003-2004 fiscal year, recovered costs are being reported as revenues rather than as reductions of department expenditures as in prior years. This change in reporting has the impact of increasing both revenues and expenditures as compared to the prior year. Through January, approximately \$2.3 million in recovered costs had been received and was included in the Charges for Services revenue category. Other significant variances in specific categories of revenues are discussed in the following paragraphs.

General Property Taxes increased 5.7% or \$1,568,838 compared to FY03. Current real estate tax revenues led this increase with growth of 8.1%. New construction and the January 1, 2003 reassessment generated this growth, as budgeted. Personal property tax revenues have declined in FY04 as a result of more refunds in the current year than in the prior year. The majority of this tax is collected near its May 31st due date. Increases in penalties and interest revenues and a one-time tax judgment collection contributed an additional \$43,000 in current year revenues.

The Local Tax category is a primary indicator of the health of our local economy. The category increased 5.6% as compared to last year. Sales tax revenues led this growth, and they increased by 5.6% when adjusted for several one-time collections totaling approximately \$300,000 which resulted from a sales tax audit conducted during the current year which revealed underpayment of prior years' sales taxes. The growth in the sales tax results from continued recovery in our economy. Other local taxes with positive performance through January included the transient room and prepared food and beverage taxes which grew by 6% and 5%, respectively. Additionally, cellular telephone tax increased 7.5%, partially due to a \$51,000 one-time collection stemming from a cellular telephone tax audit.

Permits and Fees grew by 23% or \$111,978 over FY03 due to growth in building, plumbing, electrical, and heating inspection fees. This growth was generated as a result of new construction and continued expansions to existing companies.

Grants-in-Aid Commonwealth declined approximately 7% since last year. Decreases occurred in the state share of personal property tax, funding of the constitutional offices, reimbursements for comprehensive services act expenditures and the jail block grant. No growth is anticipated in the Grants-in-Aid Commonwealth category which has a current revenue estimate that is .8% lower than the FY03 revenue estimate.

Charges for Services have increased due to the aforementioned change in accounting for recovered costs as revenue in FY04. Recovered costs are slightly above the estimate on a year to date basis. Additionally, EMS revenues have increased in the current year, as anticipated, in accordance with federally-permitted fees.

Miscellaneous Revenues grew by \$90,939 over FY03 due in part to the collection of surplus proceeds from prior year tax sales which have not been claimed by property owners. Sale proceeds in excess of lien amounts are retained by the City following a certain waiting period.

Internal services revenues increased by approximately 7% or \$87,458 partially due to increased building maintenance and engineering billings to the Civic Center. These stem from an initiative to thoroughly clean Civic Center buildings, as well as engineering work on the stadium/amphitheatre project. Street maintenance billings to the Water Fund have risen due to fluctuations in the amount of weather related work and the cost of improved repair materials. Other internal service billing rates increased in FY04.

EXPENDITURES AND ENCUMBRANCES

Certain items affect all categories of the City in the 2003-2004 fiscal year. First, the City granted a pay raise to active employees effective July 1, 2003, which averaged 2.85% City-wide. Secondly, the City's purchasing division created an initiative to assure that contractual commitments such as rents are encumbered via purchase order for the annual amount. This resulted in higher obligations in the current fiscal year compared to the prior fiscal year, but it represents a more realistic assessment of departmental obligations. Also, the changes to recording of recovered costs, discussed previously, results in affected departmental obligations being greater than the prior year since the recovered costs are no longer deducted from obligations.

General fund expenditures and encumbrances have increased 7.9%. Adjusted for the change in recovered costs, this increase is 6.0%. Significant variances caused by fluctuations other than the change in accounting for recovered costs are discussed below.

Public Safety expenditures increased 12.5% partially due to timing differences in the encumbrance of contractual payments in Police and Emergency Medical Services. Additionally, personal service costs increased in the labor-intensive Police and Fire departments.

Health and Welfare expenditures grew by 13.1% due to increases in ADC-foster care and training, daycare services, and adoption costs. Additionally, subsidies obligated to Total Action Against Poverty and the Health Department were up a combined \$700,000 over FY03 due to timing differences in encumbrance of contractual payments as mentioned above.

Parks, Recreation and Cultural expenditures increased in part due to a \$139,000 increase in Department of Technology billings generated by a significant increase in the number of computers owned by the libraries over the prior fiscal year. These computers were purchased in order to reduce citizens' waiting time for use of public computers.

Community Development expenditures and obligations grew over FY03 due to a budgeted increase in donations to various local organizations funded by the City. Also contributing to the increase was a one-time expenditure for the Mill Mountain Zoo water line improvements and for the City's branding initiative.

The Transfer to Debt Service decreased as a result of debt service savings from the Series 2003 refunding issue. Additionally, the payments required on the 2002 Series issues are lower in the current year than in FY03.

The Transfer to School Capital Projects Fund resulted from an appropriation of fund balances relative to CMERP for a reserve for future school construction and renovation costs. There was no similar transfer in FY03.

Nondepartmental expenditures and obligations increased due to a transfer of \$2,845,800 to the Parking Fund to redeem the lease of the Century Station parking garage with the Housing Authority.

I would be pleased to answer questions City Council may have regarding the monthly financial statements.


Director of Finance

**CITY OF ROANOKE, VIRGINIA
GENERAL FUND**

STATEMENT OF REVENUE

Revenue Source	Year to Date for the Period			Current Fiscal Year	
	July 1 - Jan 31 2002-2003	July 1 - Jan 31 2003-2004	Percentage of Change	Revised Revenue Estimates	Percent of Revenue Estimate Received
General Property Taxes	\$ 27,300,092	\$ 28,868,930	5.75 %	\$ 83,500,217	34.57%
Other Local Taxes	22,927,167	24,220,394	5.64 %	60,866,657	39.79%
Permits, Fees and Licenses	488,828	600,806	22.91 %	907,302	66.22%
Fines and Forfeitures	731,667	769,474	5.17 %	1,296,130	59.37%
Revenue from Use of Money and Property	617,321	578,652	-6.26 %	1,093,091	52.94%
Grants-in-Aid Commonwealth	22,017,047	20,397,997	-7.35 %	45,940,204	44.40%
Grants-in-Aid Federal Government	17,179	113,552	100.00 %	147,852	76.80%
Charges for Services	2,507,728	5,343,374	113.08 %	8,549,314	62.50%
Miscellaneous Revenue	110,014	200,953	82.66 %	420,474	47.79%
Internal Services	1,245,390	1,332,848	7.02 %	2,529,153	52.70%
Total	\$ 77,962,433	\$ 82,426,980	5.73 %	\$ 205,250,394	40.16%

STATEMENT OF EXPENDITURES AND ENCUMBRANCES

Expenditures	Year to Date for the Period			Current Fiscal Year		
	July 1 - Jan 31 2002-2003	July 1 - Jan 31 2003-2004	Percentage of Change	Unencumbered Balance	Revised Appropriations	Percent of Budget Obligated
General Government	\$ 7,037,560	6,840,581	-2.80 %	\$ 5,071,601	\$ 11,912,182	57.43%
Judicial Administration	3,427,355	3,606,398	5.22 %	2,963,210	6,569,608	54.90%
Public Safety	27,814,403	31,280,808	12.46 %	18,874,580	50,155,388	62.37%
Public Works	15,703,866	16,010,863	1.95 %	9,259,215	25,270,078	63.36%
Health and Welfare	14,606,853	16,513,371	13.05 %	12,058,029	28,571,400	57.80%
Parks, Recreation and Cultural	3,055,554	3,327,169	8.89 %	2,156,042	5,483,211	60.68%
Community Development	3,045,661	3,914,764	28.54 %	2,294,977	6,209,741	63.04%
Transfer to Debt Service Fund	11,251,628	13,248,243	17.75 %	1,744,954	14,993,197	88.36%
Transfer to School Fund	26,826,140	28,518,844	6.31 %	20,370,602	48,889,446	58.33%
Transfer to School Capital Projects Fund	-	1,025,630	100.00 %	-	1,025,630	100.00%
Nondepartmental	10,113,789	8,239,418	-18.53 %	3,780,993	12,020,411	68.55%
Total	\$ 122,882,809	132,526,089	7.85 %	\$ 78,574,203	\$ 211,100,292	62.78%

**CITY OF ROANOKE, VIRGINIA
WATER FUND
COMPARATIVE INCOME STATEMENT
FOR THE SEVEN MONTHS ENDING JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
Operating Revenues		
Commercial Sales	\$ 2,882,182	\$ 2,494,658
Domestic Sales	2,228,976	1,925,091
Industrial Sales	436,225	337,024
Town of Vinton	11,594	15,675
City of Salem	32,177	20,627
County of Botetourt	153,216	134,369
County of Bedford	16,072	17,655
Customer Services	267,401	200,577
Charges for Services	<u>637,487</u>	<u>703,591</u>
Total Operating Revenues	<u>6,665,330</u>	<u>5,849,267</u>
Operating Expenses		
Personal Services	2,650,042	2,560,176
Operating Expenses	2,084,069	2,341,603
Purchased Water - Roanoke County	-	1,564,633
Purchased Water - City of Salem	-	589,419
Depreciation	<u>919,858</u>	<u>980,362</u>
Total Operating Expenses	<u>5,653,969</u>	<u>8,036,193</u>
Operating Revenues (Loss)	<u>1,011,361</u>	<u>(2,186,926)</u>
Nonoperating Revenues (Expenses)		
Interest on Investments	38,578	59,527
Rent	96,585	70,700
Main Extension Agreements	104,490	36,957
Miscellaneous Revenue (Expense)	34,752	(41,146)
Transfer to Department of Technology Fund	(191,000)	-
Interest and Fiscal Charges	<u>(658,698)</u>	<u>(580,516)</u>
Net Nonoperating Expenses	<u>(575,293)</u>	<u>(454,478)</u>
Net Income (Loss)	<u><u>\$ 436,068</u></u>	<u><u>\$ (2,641,404)</u></u>

Note: Prior year financial statements have been restated to conform to current year presentation.

**CITY OF ROANOKE, VIRGINIA
WATER POLLUTION CONTROL FUND
COMPARATIVE INCOME STATEMENT
FOR THE SEVEN MONTHS ENDING JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
Operating Revenues		
Sewage Charges - City	\$ 4,048,002	\$ 3,405,117
Sewage Charges - Roanoke County	825,323	686,768
Sewage Charges - Vinton	142,599	131,804
Sewage Charges - Salem	734,385	549,862
Sewage Charges - Botetourt County	119,497	108,493
Customer Services	185,408	147,279
Interfund Services	<u>130,522</u>	<u>85,478</u>
Total Operating Revenues	<u>6,185,736</u>	<u>5,114,801</u>
Operating Expenses		
Personal Services	1,786,717	1,253,163
Operating Expenses	2,779,749	2,942,410
Depreciation	<u>1,099,220</u>	<u>1,103,879</u>
Total Operating Expenses	<u>5,665,686</u>	<u>5,299,452</u>
Operating Revenues (Loss)	<u>520,050</u>	<u>(184,651)</u>
Nonoperating Revenues (Expenses)		
Interest on Investments	67,013	89,786
Miscellaneous Revenue	33	321
Capital Contributions - Other Jurisdictions	1,803,500	97,832
Transfer to Department of Technology Fund	(190,000)	(27,248)
Interest and Fiscal Charges	<u>(119,079)</u>	<u>(433,936)</u>
Net Nonoperating Revenues (Expenses)	<u>1,561,467</u>	<u>(273,245)</u>
Net Income (Loss)	<u><u>\$ 2,081,517</u></u>	<u><u>\$ (457,896)</u></u>

**CITY OF ROANOKE, VIRGINIA
CIVIC FACILITIES FUND
COMPARATIVE INCOME STATEMENT
FOR THE SEVEN MONTHS ENDING JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
Operating Revenues		
Rentals	\$ 249,636	\$ 99,861
Event Expenses	71,724	44,186
Display Advertising	-	6,000
Admissions Tax	77,161	97,316
Electrical Fees	5,715	5,760
Novelty Fees	22,578	45,668
Facility Surcharge	109,729	45,760
Charge Card Fees	31,606	2,669
Commissions	139,910	44,908
Catering/Concessions	414,831	439,109
Other	7,509	3,093
Total Operating Revenues	<u>1,130,399</u>	<u>834,330</u>
Operating Expenses		
Personal Services	1,137,366	1,104,708
Operating Expenses	1,124,046	1,223,207
Depreciation	311,190	364,447
Total Operating Expenses	<u>2,572,602</u>	<u>2,692,362</u>
Operating Loss	<u>(1,442,203)</u>	<u>(1,858,032)</u>
Nonoperating Revenues (Expenses)		
Interest on Investments	10,318	17,740
Flood Damage Reimbursements	23,453	-
Virginia Municipal League	11,865	-
Transfer from General Fund	477,565	624,565
Transfer from General Fund - Victory Stadium	113,728	102,278
Transfer from Capital Projects Fund	260,000	-
Transfer to Debt Service Fund	(43,784)	(50,546)
Transfer to Department of Technology Fund	-	(47,754)
Loss on Disposal of Fixed Assets	-	(12,815)
Miscellaneous	1,753	8,161
Total Nonoperating Revenues	<u>854,898</u>	<u>641,629</u>
Net Loss	<u><u>\$ (587,305)</u></u>	<u><u>\$ (1,216,403)</u></u>

**CITY OF ROANOKE, VIRGINIA
PARKING FUND
COMPARATIVE INCOME STATEMENT
FOR THE SEVEN MONTHS ENDING JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
Operating Revenues		
Century Station Parking Garage	\$ 244,471	\$ 216,005
Williamson Road Parking Garage	294,495	223,937
Market Square Parking Garage	133,777	135,490
Church Avenue Parking Garage	328,940	273,696
Tower Parking Garage	251,414	230,586
Gainsboro Parking Garage	54,525	24,366
Williamson Road Surface Lots	43,442	43,389
Norfolk Avenue Surface Lot	32,700	33,511
Gainsboro Surface Lot	23,490	19,953
Other Surface Lots	81,092	26,591
	<u>1,488,346</u>	<u>1,227,524</u>
Total Operating Revenues		
	<u>1,488,346</u>	<u>1,227,524</u>
Operating Expenses		
Operating Expenses	639,557	635,660
Depreciation	325,655	325,879
	<u>965,212</u>	<u>961,539</u>
Total Operating Expenses		
	<u>965,212</u>	<u>961,539</u>
Operating Income	<u>523,134</u>	<u>265,985</u>
Nonoperating Revenues (Expenses)		
Interest on Investments	10,768	6,816
Transfer from General Fund (see Note)	2,845,800	115,000
Transfer from Department of Technology Fund	78,000	-
Interest and Fiscal Charges	(218,277)	(342,889)
	<u>2,716,291</u>	<u>(221,073)</u>
Net Nonoperating Revenues (Expenses)		
	<u>2,716,291</u>	<u>(221,073)</u>
Net Income	<u><u>\$ 3,239,425</u></u>	<u><u>\$ 44,912</u></u>

Note: The Transfer from General Fund for FY 2004 was to redeem the Century Station Garage lease.

**CITY OF ROANOKE, VIRGINIA
CITY TREASURER'S OFFICE
GENERAL STATEMENT OF ACCOUNTABILITY
FOR THE MONTH ENDED JANUARY 31, 2004**

TO THE DIRECTOR OF FINANCE:

GENERAL STATEMENT OF ACCOUNTABILITY OF THE CITY TREASURER OF THE CITY OF ROANOKE, VIRGINIA FOR THE FUNDS OF SAID CITY FOR THE MONTH ENDED JANUARY 31, 2004.

FUND	BALANCE AT DEC 31, 2003	RECEIPTS	DISBURSEMENTS	BALANCE AT JAN 31, 2004	BALANCE AT JAN 31, 2003
GENERAL	(\$12,223,776.19)	\$10,994,726.12	\$18,748,081.13	(\$19,977,131.20)	(\$13,833,534.91)
WATER	4,513,387.80	106,144.13	658,251.21	3,961,280.72	3,863,174.36
WATER POLLUTION CONTROL	10,445,766.44	18,523,412.75	2,632,042.06	26,337,137.13	8,443,439.68
CIVIC FACILITIES	1,015,441.16	677,912.12	122,156.88	1,571,196.40	1,565,273.47
PARKING	639,451.04	272,423.71	250,200.94	661,673.81	229,911.80
CAPITAL PROJECTS	49,120,291.42	1,458,668.23	944,014.34	49,634,945.31	56,976,832.57
MARKET BUILDING OPERATIONS	188,225.84	20,092.12	19,754.59	188,563.37	316,468.58
CONFERENCE CENTER	4,065,230.12	20,479.74	5,140.54	4,080,569.32	3,816,221.90
DEBT SERVICE	14,016,775.06	866,345.68	3,298,218.44	11,584,902.30	10,870,729.59
DEPT OF TECHNOLOGY	4,386,634.15	222,828.18	193,121.83	4,416,340.50	5,479,335.48
FLEET MANAGEMENT	156,308.61	1,171,379.72	541,576.28	786,112.05	1,679,448.66
PAYROLL	(17,120,049.11)	18,938,657.43	14,327,867.67	(12,509,259.35)	(11,660,898.93)
RISK MANAGEMENT	11,924,546.15	957,290.58	696,014.39	12,185,822.34	11,176,009.55
PENSION	1,093,670.74	1,732,049.62	1,828,008.44	997,711.92	613,872.97
SCHOOL FUND	8,142,396.89	5,718,923.64	6,684,115.91	7,177,204.62	9,106,830.86
SCHOOL CAPITAL PROJECTS	8,295,388.40	3,651.21	926,447.95	7,372,591.66	8,730,085.29
SCHOOL FOOD SERVICE	240,196.93	320,635.52	138,893.04	421,939.41	415,130.82
FDETC	88,958.47	23,818.20	75.30	112,701.37	74,613.60
GRANT	1,411,163.91	266,701.25	561,929.72	1,115,935.44	1,320,066.20
TOTAL	\$90,400,007.83	\$62,296,139.95	\$52,575,910.66	\$100,120,237.12	\$99,183,011.54

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE STATEMENT OF MY ACCOUNTABILITY TO THE CITY OF ROANOKE, VIRGINIA, FOR THE FUNDS OF THE VARIOUS ACCOUNTS THEREOF FOR THE MONTH ENDED JANUARY 31, 2004.
THAT SAID FOREGOING:

CASH

CASH IN HAND \$12,325.15
CASH IN BANK 1,228,420.11

INVESTMENTS ACQUIRED FROM COMPETITIVE PROPOSALS:

COMMERCIAL HIGH PERFORMANCE MONEY MARKET 10,250,000.00
LOCAL GOVERNMENT INVESTMENT POOL 9,470,809.29
MONEY MANAGEMENT ACCOUNT 10,469,335.95
U. S. AGENCIES 15,500,000.00
VIRGINIA AIM PROGRAM (U. S. SECURITIES) 36,787,965.69
VIRGINIA RESOURCE AUTHORITY 16,401,380.93

TOTAL \$100,120,237.12

FEBRUARY 17, 2004


EVELYN W. POWERS, TREASURER

**CITY OF ROANOKE PENSION PLAN
STATEMENT OF CHANGES IN PLAN NET ASSETS
FOR THE SEVEN MONTHS ENDED JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
<u>Additions:</u>		
Employer Contributions	\$ 2,915,646	\$ 2,344,776
Investment Income		
Net Appreciation (Depreciation) in Fair Value of Investments	32,612,536	(22,677,941)
Interest and Dividend Income	1,349,715	1,353,721
Total Investment Income (Loss)	33,962,251	(21,324,220)
Less Investment Expense	152,663	116,798
Net Investment Income (Loss)	33,809,588	(21,441,018)
Total Additions (Deductions)	<u>\$ 36,725,234</u>	<u>\$ (19,096,242)</u>
 <u>Deductions</u>		
Benefits Paid to Participants	\$ 10,452,631	\$ 9,609,365
Administrative Expenses	265,306	283,065
Total Deductions	<u>10,717,937</u>	<u>9,892,430</u>
 Net Increase (Decrease)	26,007,297	(28,988,672)
 Net Assets Held in Trust for Pension Benefits:		
 Fund Balance July 1	283,983,057	289,534,315
Fund Balance January 31	<u><u>\$309,990,354</u></u>	<u><u>\$260,545,643</u></u>

**CITY OF ROANOKE PENSION PLAN
BALANCE SHEET
JANUARY 31, 2004**

	<u>FY 2004</u>	<u>FY 2003</u>
<u>Assets</u>		
Cash	\$ 969,890	\$ 613,652
Investments, at Fair Value	310,545,829	261,330,230
Due from Other Funds	1,431	1,590
Other Assets	<u>6,150</u>	<u>5,785</u>
Total Assets	<u>\$ 311,523,300</u>	<u>\$ 261,951,257</u>
 <u>Liabilities and Fund Balance</u>		
 Liabilities:		
Due to Other Funds	\$ 1,532,528	\$ 1,405,202
Accounts Payable	<u>418</u>	<u>412</u>
 Total Liabilities	 <u>1,532,946</u>	 <u>1,405,614</u>
 Fund Balance:		
Fund Balance, July 1	283,983,057	289,534,315
Net Gain (Loss) - Year to Date	<u>26,007,297</u>	<u>(28,988,672)</u>
 Total Fund Balance	 <u>309,990,354</u>	 <u>260,545,643</u>
 Total Liabilities and Fund Balance	 <u>\$ 311,523,300</u>	 <u>\$ 261,951,257</u>

WMT
IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION rescheduling the regular meeting of City Council scheduled to be held on Monday, May 17, 2004, to Thursday, May 20, 2004, at 2:00 p.m., and 7:00 p.m., and amending Resolution No. 36414-070703, which established the meeting schedule for the Fiscal Year commencing July 1, 2003, and terminating June 30, 2004.

BE IT RESOLVED by the Council of the City of Roanoke that:

1. The regular meeting of City Council scheduled to be held at 2:00 p.m. on Monday, May 17, 2004, in City Council Chambers at 215 Church Avenue, S. W., is hereby rescheduled to commence at 2:00 p.m., on Thursday, May 20, 2004, to be recessed upon the completion of all business except the conduct of public hearings, and such meeting to be reconvened at 7:00 p.m. on the same day for the conduct of public hearings in City Council Chambers.

2. Resolution No. 36414-070703, adopted July, 2003, is hereby amended to the extent it is inconsistent with this resolution.

3. The City Clerk is directed to cause a copy of this resolution to be posted adjacent to the doors of the Council Chambers and inserted in a newspaper having general circulation in the City at least seven days prior to May 20, 2004.

ATTEST:

City Clerk.